

**PUBLIC HEALTH CODE (EXCERPT)**

**Act 368 of 1978**

**PART 161**

**GENERAL PROVISIONS**

**333.16101 Meanings of words and phrases; general definitions and principles of construction.**

Sec. 16101. (1) For purposes of this article, the words and phrases defined in sections 16102 to 16109 have the meanings ascribed to them in those sections.

(2) In addition article 1 contains general definitions and principles of construction applicable to all articles in this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Compiler's note:** For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of rule-making authority of occupational and health occupation boards and related task forces from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For transfer of powers and duties of the bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

**Popular name:** Act 368

**333.16103 Definitions; B, C.**

Sec. 16103. (1) "Board" as used in this part means each board created in this article and as used in any other part covering a specific health profession means the board created in that part.

(2) "Certificate of licensure" means a document issued as evidence of authorization to practice and use a designated title.

(3) "Certificate of registration" means a document issued as evidence of authorization to use a designated title.

(4) "Controlled substance" means that term as defined in section 7104.

(5) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**333.16103a "Committee" defined.**

Sec. 16103a. "Committee" means the health professional recovery committee created in section 16165.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**333.16104 Definitions; D to G.**

Sec. 16104. (1) "DEA registration number" means the number associated with a certificate of registration issued to a practitioner to prescribe, dispense, or administer controlled substances by the United States department of justice drug enforcement administration.

(2) "Delegation" means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(3) "Department" means the department of licensing and regulatory affairs.

(4) "Director" means the director of the department or the director's designee.

(5) "Disciplinary subcommittee" means a disciplinary subcommittee appointed under section 16216.

(6) "Good moral character" means good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011.

**Popular name:** Act 368

**333.16105 Definitions; H.**

Sec. 16105. (1) "Health occupation" means a health related vocation, calling, occupation, or employment

performed by an individual whether or not the individual is licensed or registered under this article.

(2) "Health profession" means a vocation, calling, occupation, or employment performed by an individual acting pursuant to a license or registration issued under this article.

(3) "Health profession specialty field" means an area of practice established under this article that is within the scope of activities, functions, and duties of a licensed health profession and that requires advanced education and training beyond that required for initial licensure.

(4) "Health profession specialty field license" means an authorization to use a title issued to a licensee who has met qualifications established by the Michigan board of dentistry for registration in a health profession specialty field. An individual who holds a dental specialty certification on the effective date of the amendatory act that added this subsection is considered to hold a health profession specialty field license in that specialty and may obtain renewal of the health profession specialty field license in that specialty on the expiration date of the specialty certification. The health profession specialty field license is not a license as that term is defined in section 16106(2).

(5) "Health profession subfield" means an area of practice established under this article which is within the scope of the activities, functions, and duties of a licensed health profession, and requires less comprehensive knowledge and skill than is required to practice the full scope of the health profession.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

**Popular name:** Act 368

### **333.16105a "Health professional recovery program" defined.**

Sec. 16105a. "Health professional recovery program" or "program" means a nondisciplinary, treatment-oriented program for impaired health professionals established under section 16167.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16106 Definitions; I to L.**

Sec. 16106. (1) "Incompetence" means a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.

(2) "License", except as otherwise provided in this subsection, means an authorization issued under this article to practice where practice would otherwise be unlawful. License includes an authorization to use a designated title which use would otherwise be prohibited under this article and may be used to refer to a health profession subfield license, limited license, or a temporary license. For purposes of the definition of "prescriber" contained in section 17708(2) only, license includes an authorization issued under the laws of another state, or the country of Canada to practice in that state or in the country of Canada, where practice would otherwise be unlawful, and is limited to a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery. License does not include a health profession specialty field license.

(3) "Licensee", as used in a part that regulates a specific health profession, means an individual to whom a license is issued under that part, and as used in this part means each licensee regulated by this article.

(4) "Limitation" means an action by which a board imposes restrictions or conditions, or both, on a license.

(5) "Limited license" means a license to which restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served are imposed by a board.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1997, Act 153, Eff. Mar. 31, 1998;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

**Popular name:** Act 368

### **333.16106a Definitions.**

Sec. 16106a. "Impaired" or "impairment" means the inability or immediately impending inability of a health professional to practice his or her health profession in a manner that conforms to the minimum standards of acceptable and prevailing practice for that health profession due to the health professional's substance abuse, chemical dependency, or mental illness or the health professional's use of drugs or alcohol that does not constitute substance abuse or chemical dependency. As used in this section:

(a) "Chemical dependency" means a group of cognitive, behavioral, and physiological symptoms that indicate that an individual has a substantial lack of or no control over the individual's use of 1 or more psychoactive substances.

(b) "Mental illness" means that term as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400.

(c) "Substance abuse" means substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2012, Act 501, Eff. Jan. 1, 2013.

**Popular name:** Act 368

### **333.16107 Definitions; P.**

Sec. 16107. (1) "Permanent revocation" means the permanent cancellation or withdrawal of a license, registration, or authorization to engage in the practice of a health profession under this article that is issued by the department, board, or task force.

(2) "Probation" means a sanction that permits a board to evaluate over a period of time a licensee's or registrant's fitness to continue to practice under a license or registration.

(3) "Public member" means a member of the general public who is not a licensee or registrant, is a resident of this state, is not less than 18 years of age, and does not have a material financial interest in the provision of health services and has not had a material financial interest within the 12 months before appointment.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2014, Act 410, Eff. Mar. 30, 2015.

**Popular name:** Act 368

### **333.16108 Definitions; R.**

Sec. 16108. (1) "Reclassification" means an action by a disciplinary subcommittee by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) "Registration" means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. Registration includes specialty certification of a licensee and a health profession specialty field license.

(3) "Registrant" as used in a part that regulates the use of a title means an individual to whom a registration, a specialty certification, or a health profession specialty field license is issued under that part, and as used in this part means each registrant regulated by this article.

(4) "Reinstatement" means the granting of a license or certificate of registration, with or without limitations or conditions, to an individual whose license or certificate of registration has been suspended or revoked.

(5) "Relicensure" means the granting of a license to an individual whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(6) "Reregistration" means the granting of a certificate of registration to an individual whose certificate of registration has lapsed for failure to renew the certificate within 60 days after the expiration date.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

**Popular name:** Act 368

### **333.16109 Definitions; S to T.**

Sec. 16109. (1) "Specialty certification" means an authorization to use a title by a licensee who has met qualifications established by a board for registration in a health profession specialty field.

(2) "Supervision", except as otherwise provided in this article, means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(a) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(b) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(c) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

(3) "Task force" means a task force created by this article.

(4) "Temporary license" means a license of limited duration granted to an applicant who has completed all requirements for licensure except an examination or other required evaluation procedure.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1991, Act 58, Imd. Eff. June 27, 1991.

**Popular name:** Act 368

### **333.16109a "Treatment" or "treatment plan" defined.**

Sec. 16109a. "Treatment" or "treatment plan" means a plan of care and rehabilitation services provided to

impaired licensees, registrants, and applicants.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16111 Applicability of part; part controlling over other parts in article; effect of part on other licenses and registrants.**

Sec. 16111. (1) This part applies to health professions, but, except for sections 16201, 16261, 16299, 16301, 16303, 16305, 16307, 16309, and 16313, does not apply to a pharmacy, dispensing prescriber, or drug manufacturer or wholesaler who is regulated by part 177.

(2) Except as otherwise provided by this article, this part controls over all other parts in this article.

(3) A part in this article does not prohibit a licensee under another part or other law of this state from performing activities and using designated titles authorized by a license issued to him or her under that other part or other law of this state.

(4) A part in this article does not prohibit a registrant under another part or other state law from using designated titles authorized by a registration issued to him or her under that other part or other state law.

(5) This article shall not prohibit a licensee from advising a patient to seek professional services or advice from another person.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 368

### **333.16115 Board created as successor to former board with same or similar name.**

Sec. 16115. A board created by this article is the successor to the board with the same or similar name created or continued by a statute repealed by this code.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.16121 Board or task force; appointment of members; vacancy; nominations; removal or suspension of member.**

Sec. 16121. (1) The governor shall appoint by and with the advice and consent of the senate the members of the boards and task forces except ex officio members.

(2) A vacancy on a board or task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. An appointment for a vacancy shall be submitted to the senate not later than 60 days after the vacancy occurs.

(3) The governor shall seek nominations from a wide range of sources including professional associations, educational institutions, consumer organizations, labor unions, health planning agencies, and other community health organizations when making appointments under this article.

(4) The governor may remove or suspend a board or task force member from office in accordance with section 10 of article 5 of the state constitution of 1963.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16122 Board or task force; terms.**

Sec. 16122. Except as otherwise provided in this article, the term of office of members of a board or task force is 4 years, commencing on the day after the date prescribed in each respective part and terminating on the prescribed date. A member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise, including service on a predecessor council, board, or task force. However, a member serving when this section takes effect may complete the term to which the member was appointed.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 368

### **333.16123 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.**

**Compiler's note:** The repealed section pertained to membership of council.

**Popular name:** Act 368

### **333.16125 Licensing board; membership.**

Sec. 16125. A licensing board shall be composed of a majority of members licensed in the health profession which that board licenses. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state

constitution of 1963 or for determining a quorum. If a licensed health profession subfield is created by this article, the board shall include at least 1 licensee from each subfield. If a health profession subfield task force is created by this article, 1 licensee from each subfield so appointed to the board shall also be appointed as a member of the health profession subfield task force. If a certified health profession specialty field task force is created by this article, 1 member of the board holding a license other than a health profession subfield license shall also be appointed to the specialty field task force.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 202, Imd. Eff. Oct. 23, 1989.

**Popular name:** Act 368

### **333.16126 Registration board; membership.**

Sec. 16126. A registration board shall be composed of a majority of members registered in the profession which that board registers. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.16128 Health profession subfield task force and health profession specialty field task force; membership.**

Sec. 16128. (1) A health profession subfield task force shall be composed of a majority of members licensed in the subfields of the health profession that are created by this article and shall include at least 1 licensed member from each of the subfields of the health profession that is created by this article. A health profession subfield task force shall include at least 1 public member and 1 member of that profession who holds a license other than a subfield license in that health profession.

(2) A health profession specialty field task force shall be composed of a majority of members registered in the specialty fields of the health profession that are created by this article. A health profession specialty field task force shall include at least 1 public member and 1 member of that health profession who is a member of the board.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

**Popular name:** Act 368

### **333.16131 Repealed. 2006, Act 392, Imd. Eff. Sept. 27, 2006**

**Compiler's note:** The repealed section pertained to terms of office of members of boards and task forces.

**Popular name:** Act 368

### **333.16132 Expired. 1978, Act 368, Eff. Sept. 30, 1983.**

**Compiler's note:** The expired section pertained to the extension of certain terms of board members.

**Popular name:** Act 368

### **333.16134 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.**

**Compiler's note:** The repealed section pertained to appointment of health profession subfield licenses.

**Popular name:** Act 368

### **333.16135 Board, committee, or task force; qualifications of members.**

Sec. 16135. (1) Except as otherwise provided in subsection (2), a member of a board, the committee, or a task force created by this article must meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Be a resident of this state for not less than the 6 months immediately preceding appointment and remain a resident of this state throughout the term of the appointment.

(d) Be currently licensed or registered in this state if licensure or registration in a health profession is a requirement for membership. The member must have actively practiced that profession or taught in an approved educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, in any state for not less than the 2 years immediately preceding appointment.

(e) Not be a spouse, parent, child, or sibling of another member of the board, committee, or task force and meet this requirement throughout the term of the appointment.

(f) Not provide supervision over or be under the supervision of another member of the board, committee, or task force and meet this requirement throughout the term of the appointment.



(2) Subject to subsection (3), the governor may appoint as a member of a board who is required to be licensed or registered under subsection (1)(d) an individual who meets either or both of the following requirements:

(a) Is certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the profession to be licensed or registered by the board.

(b) Has actively practiced the profession licensed or registered by the board or taught in an educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, for not less than the 2 years immediately preceding his or her appointment.

(3) An individual appointed under subsection (2) must be licensed or registered under this article in the profession licensed or registered by that board within 3 years after the effective date of the amendatory act that created the board.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 421, Eff. Mar. 30, 1989;—Am. 1988, Act 473, Imd. Eff. Dec. 28, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16137 Board, committee, or task force; compensation and expenses of members.**

Sec. 16137. The legislature annually shall fix the per diem compensation of the members of the council, the committee, the boards, and the task forces. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16138 Board, committee, or task force; meetings; quorum; final action; voting by proxy prohibited; times and places of meetings; minutes; record of actions; meetings open to public.**

Sec. 16138. (1) A board, the committee, or a task force shall hold regular meetings at places and on separate dates fixed by it. The committee shall meet not less than quarterly. Special meetings may be called by the chairperson, by a majority of the members of the committee, a board, or a task force, or by the department. Except as otherwise provided in this article or in the bylaws of the committee, a board, or a task force, a majority of the members appointed and serving constitute a quorum. Final action by the committee, a board, or a task force shall be taken only by affirmative vote of a majority of the members present at a meeting or for a hearing. A member shall not vote by proxy.

(2) The department shall make available the times and places of meetings of the boards and the task forces and keep minutes of their meetings and a record of their actions. Meetings of a board, or a task force shall be open to the public in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16139 Board or task force; election of chairperson or vice-chairperson; selection and terms of officers; vacancy; presiding officer.**

Sec. 16139. A board or a task force shall elect annually a chairperson and vice-chairperson at the first meeting held after the date set forth in each respective part. The committee shall elect annually a chairperson and vice-chairperson at the first meeting of each calendar year. The officers shall be selected from board, committee, or task force members and shall hold office for 1 year or until their successors are elected and qualified. The committee, a board, or a task force may fill a vacancy in the office of chairperson or vice-chairperson for the balance of the unexpired term. The chairperson shall preside at meetings, and if absent or unable to preside, the vice-chairperson shall preside.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

**333.16141 Committee, board, or task force; office services; offices, records and money; managerial and administrative functions; administrative and secretarial staff, clerks, and employees; salaries and expenses; rules.**

Sec. 16141. (1) The department shall furnish office services to the committee, the boards, and the task forces; have charge of their offices, records, and money collected; and perform managerial and administrative functions for them.

(2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary to allow the proper exercise of the powers and duties of the committee, a board, or a task force. Salaries and other expenses incurred by the committee, a board, or a task force and staff and expenses for studies and activities authorized under this article shall be paid out of funds appropriated by the legislature for those purposes.

(3) The department may promulgate rules to promote the effective and consistent administration of this article. However, the department shall not promulgate rules that constitute the licensure, registration, or examination of health professionals.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**Administrative rules:** R 338.951 et seq. of the Michigan Administrative Code.

**333.16143 Committee, board, or task force; bylaws; annual report; actions and determinations; contracts for assistance.**

Sec. 16143. (1) The committee, a board, or a task force may adopt bylaws for the regulation of its internal affairs.

(2) The committee, a disciplinary subcommittee, a board, or a task force shall report its activities annually to the department. The report shall include statistical data on applicants for examination, licensure, and registration; allegations and disciplinary actions against licensees and registrants; and other matters relating to the licensure, registration, and regulatory activity of the boards or a task force as prescribed by the department.

(3) The committee, a disciplinary subcommittee, a board, or a task force may perform acts and make determinations necessary and proper to carry out its functions and the department may contract with other state agencies, private agencies, organizations, and consultants to assist the committee, disciplinary subcommittee, board, or task force to perform the acts or to aid in carrying out functions of the committee, board, or task force.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

**333.16145 Board or task force; official seal; rules.**

Sec. 16145. (1) A board may adopt and have an official seal.

(2) A board or task force may promulgate rules necessary or appropriate to fulfill its functions as prescribed in this article.

(3) Only a board or task force shall promulgate rules to specify requirements for licenses, registrations, renewals, examinations, and required passing scores.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

**Administrative rules:** R 325.321 et seq.; R 338.91 et seq.; R 338.101 et seq.; R 338.121; R 338.241; R 338.251 et seq.; R 338.281; R 338.291; R 338.311 et seq.; R 338.471 et seq.; R 338.1161; R 338.1201 et seq.; R 338.2301 et seq.; R 338.2501 et seq.; R 338.3001 et seq.; R 338.3031; R 338.3101 et seq.; R 338.3601 et seq.; R 338.3701 et seq.; R 338.3821; R 338.3901 et seq.; R 338.3921; R 338.4101 et seq.; R 338.4601; R 338.4901 et seq.; R 338.4971 et seq.; R 338.7101 et seq.; R 338.7201 et seq.; R 338.10101 et seq.; R 338.11101 et seq.; R 338.12001 et seq.; and R 340.801 et seq. of the Michigan Administrative Code.

**333.16146 Board; granting license or registration.**

Sec. 16146. (1) A board shall grant a license or registration to an applicant meeting the requirements for the license or registration as prescribed in this article and the rules promulgated under this article.

(2) A board which grants licenses may:

(a) Certify licensees in those health profession specialty fields within its scope of practice which are

established in this article.

(b) Reclassify licenses on the basis of a determination that the addition or removal of conditions or restrictions is appropriate.

(c) Upon good cause, request that a licensee or registrant have a criminal history check conducted in accordance with section 16174(3).

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006.

**Popular name:** Act 368

**333.16148 Rules; establishing standards for education and training for practice of health profession; training standards for identifying victims of human trafficking; accreditation of training programs; requirements for action or decision; voting; applicability of R 338.10305 to certain members of nursing faculties.**

Sec. 16148. (1) Except as otherwise provided in this section or section 17060, the department, in consultation with a board, may promulgate rules to establish standards for the education and training of individuals to be licensed or registered, or whose licenses or registrations are to be renewed, for the purposes of determining whether graduates of a training program have the knowledge and skills requisite for practice of a health profession or use of a title. By 2 years after the effective date of the amendatory act that added this sentence, the department shall promulgate rules to include training standards for identifying victims of human trafficking required for individuals licensed or registered under this article, except those licensed under part 188 or subject to section 17060. The training standards for identifying victims of human trafficking shall apply for a license or registration renewal beginning with the first renewal cycle after the rules are promulgated and for an initial license or registration issued 5 or more years after the rules are promulgated.

(2) Except as otherwise provided in section 17060 and subject to subsections (6) and (7), only a board may accredit training programs in hospitals, schools, colleges, universities, and institutions offering training programs meeting educational standards and may deny or withdraw accreditation of training programs for failure to meet established standards. The board shall give a hospital, school, college, university, or institution that has its program accreditation withdrawn an opportunity for a hearing.

(3) The board shall take action or make a decision under subsection (1) or (2) relating to a specific health profession subfield only after consultation with the task force in the affected health profession subfield and with at least 1 of the affected health profession subfield board members present.

(4) A member of a licensing board from the health profession subfield shall vote as an equal member in all matters except those issues designated in subsections (1) and (2) that are outside the health profession subfield.

(5) A decision of a board on standards for the education and training of individuals or the accreditation of a training program under subsection (1) or (2) must be concurred in by a majority of the board members who are not health profession subfield licensees if the decision relates solely to licenses that are not health profession subfield licenses.

(6) The requirement of subsection (2)(b)(iii) of R 338.10305 of the Michigan administrative code, that each member of the nursing faculty in a program of nursing education for registered nurses who provides instruction in the clinical laboratory or cooperating agencies hold a baccalaureate degree in nursing science does not apply to a member of the nursing faculty described in this subsection who meets both of the following requirements:

(a) Was employed by or under contract to a program of nursing education on or before September 1, 1989.

(b) Is employed by or under contract to a program of nursing education on June 29, 1995.

(7) The requirement of subsection (2)(c)(ii) of R 338.10305 of the Michigan administrative code, that each member of the nursing faculty in a program of nursing education for licensed practical nurses hold a baccalaureate degree in nursing science does not apply to a member of the nursing faculty described in this subsection who meets both of the following requirements:

(a) Was employed by or under contract to a program of nursing education on or before September 1, 1989.

(b) Is employed by or under contract to a program of nursing education on June 29, 1995.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1995, Act 115, Imd. Eff. June 29, 1995;—Am. 2014, Act 343, Eff. Jan. 14, 2015.

**Compiler's note:** In subsections (6) and (7), the reference to "subsection" evidently should read "subrule."

**Popular name:** Act 368

**Administrative rules:** R 325.321 et seq.; R 338.91 et seq.; R 338.101 et seq.; R 338.251 et seq.; R 338.281; R 338.291; R 338.311 et seq.; R 338.471a et seq.; R 338.1201 et seq.; R 338.3031; R 338.3701 et seq.; R 338.4101 et seq.; and R 340.801 et seq. of the Michigan Administrative Code.

**333.16151-333.16156 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.**

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**Compiler's note:** The repealed sections pertained to creation, duties, and powers of health occupations council, and recommended licensure or registration.

**Popular name:** Act 368

### **333.16158 Repealed. 1986, Act 77, Imd. Eff. Apr. 7, 1986.**

**Compiler's note:** The repealed section pertained to studies and recommendations of health occupations council.

**Popular name:** Act 368

### **333.16161 Health profession subfield task force and health profession specialty field task force; function.**

Sec. 16161. (1) If a health profession subfield task force is created for a health profession, that task force shall serve as the task force for all health profession subfields within the scope of practice of the health profession and shall function as set forth in this part.

(2) If a health profession specialty field task force is created for a health profession, that task force shall serve as the task force for all health profession specialty fields within the scope of practice of the health profession and shall function as set forth in this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1989, Act 202, Imd. Eff. Oct. 23, 1989.

**Popular name:** Act 368

### **333.16163 Task force; recommendations to board.**

Sec. 16163. A task force shall recommend to the board as to:

(a) Determination of standards of education, training, and experience required for practice in a health profession subfield or for registration in a health profession specialty field, and where appropriate, guidelines for approval of educational programs for the health profession subfield or health profession specialty field.

(b) Qualifications required of applicants for licensure in health profession subfields or for registration in health profession specialty fields.

(c) Evaluation of qualifications for initial and continuing licensure of practitioners in health profession subfields or health profession specialty fields. The evaluation may cover assessment of educational credentials, work experience and related training, and administration of tests and examinations.

(d) Guidelines for utilization of, and standards of practice for, licensees in health profession subfields or registrants in health profession specialty fields.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002.

**Popular name:** Act 368

### **333.16165 Health professional recovery committee; creation; appointment of members; ex officio member; qualifications.**

Sec. 16165. (1) The health professional recovery committee is created in the department and shall consist of the following voting members, appointed as follows:

(a) Subject to subsection (4), each board created under this article and the physician's assistants task force, in consultation with the appropriate professional associations, shall appoint 1 health professional member.

(b) The director shall appoint 2 public members, 1 of whom has specialized training or experience, or both, in treatment of individuals with addictive behavior.

(2) The director shall serve as an ex officio member of the committee without vote.

(3) The director and the boards and the physician's assistants task force shall not appoint as a member of the committee an individual who is at the time of appointment a member of a board or task force.

(4) The members appointed by the boards and the physician's assistants task force under subsection (1)(a) shall have education, training, and clinical expertise in the treatment of individuals with addictive behavior or mental illness, or both.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16166 Committee; term; vacancy.**

Sec. 16166. The term of office of an appointed member of the committee is 2 years, commencing on January 1 and terminating on December 31. An appointed member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise. A board or the physician's assistants task force or the director shall fill a vacancy for the balance of the unexpired term in the same manner as the original appointment.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16167 Committee; duties.**

Sec. 16167. The committee shall do all of the following:

(a) Establish the general components of the health professional recovery program and a mechanism for monitoring health professionals who may be impaired.

(b) Subject to sections 16169 and 16170 and in conjunction with the health professional recovery program consultants described in section 16168, develop and implement criteria for the identification, assessment, and treatment of health professionals who may be impaired.

(c) In conjunction with the health professional recovery program consultants described in section 16168, develop and implement mechanisms for the evaluation of continuing care or aftercare plans for health professionals who may be impaired.

(d) Develop a mechanism and criteria for the referral of a health professional who may be impaired to a professional association when appropriate for the purpose of providing assistance to the health professional. In developing criteria under this subdivision, the committee shall require that a referral be made only with the consent of the health professional.

(e) Annually report to each board and the physician's assistants task force created under this article on the status of the health professional recovery program. The committee shall include in the report, at a minimum, statistical information on the level of participation in the program of each health profession. The committee may include in the report recommendations for changes in the health professional recovery program and for participation by the boards and the physician's assistants task force, professional associations, substance abuse treatment and prevention programs, and other appropriate agencies.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16168 Contracts with private entities to assist with health professional recovery program; report.**

Sec. 16168. (1) The department shall enter into a contract with a private entity to act as a consultant to assist the committee with the administration of the health professional recovery program including, but not limited to, the duties described in section 16167(b) and (c). The department shall require the private entity to demonstrate that it has expertise and knowledge regarding the treatment of impaired health professionals.

(2) In the contract between the department and the private entity entered into under subsection (1), the department shall require the private entity to report immediately to the department any circumstances known to the private entity that indicate that an impaired health professional may be a threat to the public health, safety, or welfare.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16169 Impairment of health professional; transmitting information; determination.**

Sec. 16169. (1) If an individual employed by or under contract to the department has reasonable cause to believe that a health professional may be impaired, the individual shall transmit the information to the committee either orally or in writing. Upon receipt of the information, the committee shall request the program consultant described in section 16168 to determine whether or not the health professional may be impaired.

(2) If, based on the information received by the department under section 16168(2), the department determines that the health professional involved may be a threat to the public health, safety, or welfare and has violated this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8, the department may proceed under sections 16211 and 16231.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

**Popular name:** Act 368

### **333.16170 Acceptance into health professional recovery program; requirements; participation; false representation of completion; violation as felony.**

Sec. 16170. (1) If the program consultant described in section 16168 determines under section 16169(1) that a health professional may be impaired, the committee may accept the health professional into the health professional recovery program if both of the following requirements are met:

(a) The health professional acknowledges his or her impairment.

(b) The health professional voluntarily does all of the following:

(i) Withdraws from or limits the scope of his or her practice, as determined necessary by the committee. To

comply with this subparagraph, a health professional may request the limitation of his or her license under section 16182.

(ii) Agrees to participate in a treatment plan that meets the criteria developed under section 16167.

(2) If a health professional does not satisfactorily participate in the treatment plan described in subsection (1)(b)(ii), as determined by the committee, the committee shall report that fact to the department.

(3) A health professional participating in or who has participated in a treatment plan under the health professional recovery program or an individual treating the health professional under the treatment plan shall not falsely represent, either individually or together, that the health professional has successfully completed the treatment plan. An individual who intentionally violates this subsection is guilty of a felony.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16170a Confidentiality; destruction of records; applicability of subsection (3).**

Sec. 16170a. (1) The identity of an individual submitting information to the committee or the department regarding the suspected impairment of a health professional is confidential.

(2) The identity of a health professional who participates in the health professional recovery program is confidential and is not subject to disclosure under discovery or subpoena or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless the health professional fails to satisfactorily participate in and complete a treatment plan prescribed under the health professional recovery program or violates section 16170(3).

(3) If a health professional successfully participates in and completes a treatment plan prescribed under the health professional recovery program, as determined by the committee, the department shall destroy all records pertaining to the impairment of the health professional, including records pertaining to the health professional's participation in the treatment plan, upon the expiration of 5 years after the date of the committee's determination. This subsection does not apply to records pertaining to a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

**Popular name:** Act 368

### **333.16171 License for practice of health profession; exemptions.**

Sec. 16171. Under the circumstances and subject to the limitations stated in each case, the following individuals are not required to have a license issued under this article for practice of a health profession in this state:

(a) A student who is in a health profession training program, that has been approved by the appropriate board, while performing the duties assigned in the course of training.

(b) An individual who is practicing a health profession in the discharge of official duties while in the military service of the United States, the United States Public Health Service, the United States Department of Agriculture, or the United States Department of Veterans Affairs. The institution in which the individual practices shall report the name and address of the individual to the appropriate board within 30 days after the date of employment.

(c) An individual who by education, training, or experience substantially meets the requirements of this article for licensure while rendering medical care in a time of disaster or to an ill or injured individual at the scene of an emergency.

(d) An individual who provides nonmedical nursing or similar services in the care of the ill or suffering or an individual who in good faith ministers to the ill or suffering by spiritual means alone, through prayer, in the exercise of a religious freedom, and who does not hold himself or herself out to be a health professional.

(e) An individual who resides in another state or country and is authorized to practice a health profession in that state or country who, in an exceptional circumstance, is called in for consultation or treatment by a health professional in this state.

(f) An individual who resides in another state or country and is authorized to practice a health profession in that state or country, when attending meetings or conducting lectures, seminars, or demonstrations under the auspices of professional associations or training institutions in this state, if the individual does not maintain an office or designate a place to meet patients or receive calls in this state.

(g) An individual who is authorized in another country to practice a health profession and who is employed by the United States Public Health Service or the government of another country for the exclusive use of members of its merchant marine and members of its consular and diplomatic corps, while caring for those members in the performance of his or her official duties.

(h) An individual who resides adjacent to the land border between this state and an adjoining state and is

authorized under the laws of that state to practice a health profession and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

(i) An individual who is authorized to practice a health profession in another state or territory of the United States and who is appointed by the United States Olympic Committee to provide health services exclusively to team personnel and athletes registered to train and compete at a training site in this state approved by the United States Olympic Committee or at an event conducted under the sanction of the United States Olympic Committee. An exemption granted under this subdivision applies to the individual while he or she is performing the duties assigned in the course of the sanctioned training program or event and for the time period specified by the United States Olympic Committee.

(j) An individual who is currently authorized to practice a health profession in another state and is providing health services for an athletic team, if all of the following are met:

(i) The individual provides only those health services he or she would be permitted to provide if he or she were authorized under this article to engage in that health profession in this state.

(ii) The athletic team is from the same state that authorized the individual to practice the health profession.

(iii) The individual provides the health services under the terms of a written agreement with the athletic team.

(iv) The individual only provides the health services while the athletic team is traveling to or from or participating in a sporting event in this state and only to any of the following:

(A) A member of the athletic team.

(B) A member of the athletic team's coaching, communications, equipment, or sports medicine staff.

(C) A member of a band or cheerleading squad that is accompanying the athletic team.

(D) The athletic team's mascot.

(v) The individual does not provide health services at a health care facility or agency, as defined in section 20106, located in this state.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1985, Act 82, Imd. Eff. July 5, 1985;—Am. 2016, Act 60, Eff. June 27, 2016.

**Popular name:** Act 368

### **333.16174 License or registration; requirements; fingerprints; criminal history check; permitted acts by board or task force; sanctions; disclosure.**

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a health profession subfield or health profession specialty field of the health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, specialty certification, or a health profession specialty subfield license under this article shall meet all of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application. This subdivision does not apply to an application for licensure that the board may grant under section 17011(4) or 17511(2).

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

(3) Beginning October 1, 2008, an applicant for initial licensure or registration shall submit his or her fingerprints to the department of state police to have a criminal history check conducted and request that the

department of state police forward his or her fingerprints to the federal bureau of investigation for a national criminal history check. The department of state police shall conduct a criminal history check and request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The department of state police shall provide the department with a written report of the criminal history check if the criminal history check contains any criminal history record information. The department of state police shall forward the results of the federal bureau of investigation determination to the department within 30 days after the request is made. The department shall notify the board and the applicant in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The department of state police may charge a reasonable fee to cover the cost of conducting the criminal history check. The criminal history record information obtained under this subsection shall be used only for the purpose of evaluating an applicant's qualifications for licensure or registration for which he or she has applied. A member of the board shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for licensure or registration. Information obtained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this section or for law enforcement purposes.

(4) Before granting a license, registration, specialty certification, or a health profession specialty field license to an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If subsection (2)(b) applies to an application for licensure and a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification or health profession specialty field license to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2). If an application is for licensure that the board may grant under section 17011(4) or 17511(2), the applicant is not required to secure the certification of compliance with respect to the requirements described in subsection (2)(b).

(5) If, after issuing a license, registration, specialty certification, or health profession specialty field license, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or specialty licensure or specialty certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(6) An applicant for licensure, registration, specialty certification, or a health profession specialty field license who is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1998, Act 227, Imd. Eff. July 3, 1998;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006;—Am. 2012, Act 49, Imd. Eff. Mar. 13, 2012;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

**Popular name:** Act 368

### **333.16175 License or registration; minimum standards of educational prerequisites.**

Sec. 16175. In developing minimum standards of educational prerequisites for licensure or registration, a board and its task forces shall consider equivalency and proficiency testing and other mechanisms, and where appropriate grant credit for past training, education, or experience in health and related fields. Standards may include those for formal education, practice proficiency, and other training, education, or experience which may provide equivalence to completion of formal educational requirements.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979.

**Popular name:** Act 368

### **333.16177 License or registration; form of application; inclusion of social security number; examination; passing scores; additional information; exception to social security requirement.**

Sec. 16177. (1) An individual applying for licensure or registration under this article shall do so on a form provided by the department. The department shall require each applicant to include on the application form his or her social security number. The department shall not display an applicant's social security number on his or her license or registration. If the facts set forth in the application meet the requirements of the board or



task force and this article for licensure or registration, the board or task force shall grant a license or registration to the applicant. A board or task force may require the applicant to take an examination to determine if the applicant meets the qualifications for licensure or registration. The examination shall include subjects determined by the board or task force to be essential to the safe and competent practice of the health profession, the appropriate use of a title, or both. Passing scores or the procedure used to determine passing scores shall be established before an examination is administered.

(2) In addition to the information required under subsection (1), an applicant for licensure or registration or a licensee or registrant applying for renewal shall include on a form provided by the department all of the following information, if applicable:

(a) A felony conviction.

(b) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years or a misdemeanor conviction involving the illegal delivery, possession, or use of alcohol or a controlled substance.

(c) Sanctions imposed against the applicant by a similar licensure, registration, certification, or disciplinary board of another state or country.

(3) In addition to the information required under subsections (1) and (2), a physician, osteopathic physician, dentist, or podiatrist applying for licensure or renewal under this article shall report to the department on a form provided by the department the name of each hospital with which he or she is employed or under contract, and each hospital in which he or she is allowed to practice.

(4) In addition to the information required under subsections (1), (2), and (3), an applicant for licensure and, beginning the license renewal cycle after the effective date of the amendatory act that added section 16213, a licensee applying for renewal shall provide the department, on the application or the license renewal form, with an affidavit stating that he or she has a written policy for protecting, maintaining, and providing access to his or her medical records in accordance with section 16213 and for complying with section 16213 in the event that he or she sells or closes his or her practice, retires from practice, or otherwise ceases to practice under this article. The applicant or licensee shall make the written policy available to the department upon request.

(5) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The department shall inform the applicant of this possible exemption.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998;—Am. 2006, Act 481, Imd. Eff. Dec. 22, 2006.

**Popular name:** Act 368

### **333.16178 Examinations, investigations, or evaluations to determine qualifications of applicants; passing national or regional examination; reexamination; notice of examination or evaluation.**

Sec. 16178. (1) Unless otherwise necessary for a board to fulfill national or regional testing requirements, the department shall conduct examinations or other evaluations necessary to determine qualifications of applicants for initial licensure or registration at least annually and may conduct other investigations or evaluations necessary to determine the qualifications of applicants. A board may accept passing a national or regional examination developed for use in the United States for the purpose of meeting a state board examination or a part thereof.

(2) An individual who fails to pass a required examination may be reexamined to the extent and in a manner determined by the board.

(3) The department shall give public notice of the time and place of a required regular initial licensure or registration examination or evaluation in a manner it considers best not less than 90 days before the date of the examination or evaluation.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.16179 Unlawful conduct in connection with examination or application.**

Sec. 16179. An individual shall not make a false representation or impersonation or act as a proxy for another individual or allow or aid an individual to impersonate him or her in connection with an examination or application for licensure or registration or a request to be examined, licensed, or registered.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.16181 Temporary license; nonrenewable; eligibility; duration; automatically voiding; expiration; supervision; issuance; applicant married to member of armed forces.**

Sec. 16181. (1) A board may grant a nonrenewable, temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure. A board shall not grant a temporary license to an individual who has previously failed the examination or other required evaluation procedure or whose license has been suspended or revoked. A temporary license issued under this subsection is valid for 18 months, but a board shall automatically void the temporary license if the applicant fails the examination or other required evaluation procedure.

(2) The Michigan board of nursing may grant a nonrenewable, temporary license to an applicant for a license under part 172 to engage in the practice of nursing as a registered professional nurse if the applicant is licensed as a registered professional nurse by an equivalent licensing board or authority in another state or is licensed as a registered professional nurse by an equivalent licensing board or authority in Canada. A temporary license issued under this subsection expires on the earliest of the following:

(a) One year after the date of issuance.

(b) The date the applicant is notified that he or she failed the commission on graduates of foreign nursing schools qualifying examination, as approved by the department.

(c) The date the applicant is notified that he or she failed the national council licensure examination, as approved by the department.

(d) The date the applicant is issued a license under part 172 to engage in the practice of nursing as a registered professional nurse.

(e) The date the applicant is notified that he or she has failed to meet the requirements of this article and rules promulgated under this article for licensure.

(f) The date the applicant is notified that he or she has failed to complete the application process for full licensure.

(3) The holder of a temporary license issued under subsection (1) or (5) shall practice only under the supervision of a licensee who holds a license, other than a health profession subfield license, in the same health profession. The holder of a temporary license issued under subsection (1) or (5) must not be supervised by a licensee who holds a limited license or temporary license.

(4) The department shall issue a temporary license within 48 hours upon receiving proof that the applicant's license issued by another state or a province in Canada is currently active and in good standing.

(5) Beginning 90 days after the effective date of the amendatory act that added this subsection, a board shall grant a temporary license to an applicant who meets all of the following:

(a) He or she provides proof acceptable to the board that he or she is married to a member of the armed forces of the United States who is on active duty. As used in this subdivision, "armed forces" means that term as defined in section 20950.

(b) He or she provides proof acceptable to the board that he or she holds a current license in good standing, or a current registration in good standing, in that health profession, issued by an equivalent licensing department, board, or authority, as determined by the board, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States, or a foreign country.

(c) He or she provides proof acceptable to the board that his or her spouse is assigned to a duty station in this state and that he or she is also assigned to a duty station in this state under his or her spouse's permanent change of station orders.

(d) He or she complies with section 16174(3) so that a criminal history check is conducted in the manner prescribed in that section.

(6) A temporary license issued under subsection (5) is valid for 6 months and may be renewed for 1 additional 6-month term if the board determines the temporary licensee continues to meet the requirements of subsection (5) and needs additional time to fulfill the requirements for initial licensure under this article.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1989, Act 293, Imd. Eff. Jan. 3, 1990;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2000, Act 256, Imd. Eff. June 29, 2000;—Am. 2004, Act 200, Imd. Eff. July 12, 2004;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006;—Am. 2006, Act 643, Imd. Eff. Jan. 5, 2007;—Am. 2014, Act 41, Imd. Eff. Mar. 20, 2014;—Am. 2014, Act 148, Imd. Eff. June 11, 2014.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

**333.16182 Limited licenses; issuance.**

Sec. 16182. (1) A board may grant a limited license to an individual if the board determines that the limitation is consistent with the ability of the individual to practice the health profession in a safe and competent manner, is necessary to protect the health and safety of patients or clients, or is appropriate to promote the efficient and effective delivery of health care services.

(2) In addition to the licenses issued under subsection (1), a board may grant the following types of limited licenses upon application by an individual or upon its own determination:

(a) Educational, to an individual engaged in postgraduate education.

(b) Nonclinical, to an individual who functions only in a nonclinical academic, research, or administrative setting and who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession, or otherwise directly solicit patients or clients.

(c) Clinical academic, to an individual who practices the health profession only as part of an academic institution and only in connection with his or her employment or other contractual relationship with that academic institution. For an individual applying for a limited license under this subdivision to engage in the practice of medicine under part 170, "academic institution" means that term as defined in section 17001.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990;—Am. 1993, Act 80, Eff. Apr. 1, 1994.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16183 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.**

**Compiler's note:** The repealed section pertained to grounds for reclassification of license.

**Popular name:** Act 368

### **333.16184 Special volunteer license.**

Sec. 16184. (1) An individual who is retired from engaging in the active practice of a health profession and who wishes to donate his or her expertise for the health care and treatment of indigent and needy individuals in this state or for the health care and treatment of individuals in medically underserved areas of this state may obtain a special volunteer license to engage in the practice of the health profession from which he or she is retired by submitting an application to the board under this section. An applicant shall submit an application for a special volunteer license on a form provided by the department and shall include each of the following:

(a) Documentation that the individual has been previously licensed to engage in the practice of a health profession in this state and that his or her license was in good standing at the time his or her license expired.

(b) Acknowledgment and documentation that the applicant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any health care and treatment services provided under the special volunteer license.

(c) If the applicant has been out of practice for 3 or more years, documentation that, during the 3 years immediately preceding the application, he or she has attended at least 2/3 of the continuing education courses or programs required for that health profession under this article or any rules promulgated under this article for the renewal of a license for that health profession.

(2) If the board determines that the application of the individual satisfies the requirements of subsection (1) and that the individual meets the requirements for a license under this article and rules promulgated under this article, the board shall grant a special volunteer license to the applicant. A licensee seeking renewal under this section shall provide the board with an updated acknowledgment and documentation as described in subsection (1)(b). Except as otherwise provided in this subsection, the board shall not charge a fee for the issuance or renewal of a special volunteer license under this section.

(3) Except as otherwise provided in this subsection, an individual who is granted a special volunteer license under this section and who accepts the privilege of engaging in the practice of a health profession in this state is subject to all of the provisions of this article applicable to that health profession, including those provisions concerning continuing education and disciplinary action.

(4) For purposes of this section, an individual is considered retired from engaging in the practice of a health profession if the individual's license has expired with the individual's intention of ceasing to engage, for remuneration, in the practice of the health profession.

(5) An individual who is granted a special volunteer license under this section shall only engage in activities within the scope of practice of the health profession for which he or she was licensed before his or her retirement.

(6) As used in this section and section 16185, "health profession" means a health profession for which an individual must be licensed, registered, or otherwise authorized under article 15 to practice in this state.

**History:** Add. 2006, Act 24, Imd. Eff. Feb. 16, 2006;—Am. 2006, Act 591, Imd. Eff. Jan. 3, 2007;—Am. 2012, Act 4, Imd. Eff. Feb. 7, 2012;—Am. 2013, Act 171, Imd. Eff. Nov. 18, 2013.

**Popular name:** Act 368

### **333.16185 Care by individual under special volunteer license; civil liability; gross negligence; definitions.**

Sec. 16185. (1) Subject to subsection (2), an individual who provides care under a special volunteer license to engage in the practice of a health profession granted under section 16184 is not liable in a civil action for personal injury or death proximately caused by the professional negligence or malpractice of the individual in providing the care if both of the following apply:

(a) The care is provided at a health facility or agency that provides at least 75% of its care annually to medically indigent individuals.

(b) The individual does not receive and does not intend to receive compensation for providing the care.

(2) Subsection (1) does not apply if the negligent conduct or malpractice of the individual is gross negligence.

(3) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(b) "Medically indigent individual" means that term as defined in section 106 of the social welfare act, 1939 PA 280, MCL 400.106.

**History:** Add. 2006, Act 25, Imd. Eff. Feb. 16, 2006;—Am. 2011, Act 55, Imd. Eff. June 8, 2011;—Am. 2012, Act 4, Imd. Eff. Feb. 7, 2012;—Am. 2013, Act 171, Imd. Eff. Nov. 18, 2013.

**Popular name:** Act 368

### **333.16186 Reciprocity; requirements; person licensed as respiratory therapist in Canada.**

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or, until January 1, 2012, is licensed to practice a health profession in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, specialty certified, or specialty licensed in another state or, until January 1, 2012, is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2012, if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) Until January 1, 2012, if the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third party reimbursement will originate from the applicant's place of employment in this state.

(2) Before granting a license, registration, specialty certification, or a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) For purposes of 2002 PA 441, an applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada.

(4) If the department receives an application for licensure under part 187 from an individual who is licensed as a respiratory therapist in the country of Canada, the department shall consult the international reciprocity agreement executed by the national board for respiratory care and the Canadian society of respiratory therapists in effect on the effective date of the amendatory act that added this subsection.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 81, Eff. May 1, 1988;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2002, Act 441, Imd. Eff. June 13, 2002;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 3, Eff. July 1, 2004;—Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16191 Certificate of licensure or registration; issuance; display; card to be available for inspection; displaying statement of limitation.**

Sec. 16191. (1) The department shall issue a certificate of licensure or registration to an applicant who is granted a license or registration by a board.

(2) A licensee or registrant shall display his or her current certificate of licensure or registration prominently and where visible to the public in the licensee's or registrant's principal place of business, if any.

(3) A licensee or registrant shall have available for inspection a card, which shall be issued by the department, containing the essential information on the certificate.

(4) If a license is limited by a board, the licensee shall display the statement of limitation prepared by the department in the same manner as prescribed for display of the certificate and shall attach the statement to the certificate or display the statement in immediate proximity with the certificate.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16192 Reporting change in name or address; notice of hearing or complaint; service; license or registration not transferable; service by electronic mail.**

Sec. 16192. (1) A licensee or registrant shall report to the department a change in name, mailing address, or electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (4), not later than 30 days after the change occurs.

(2) The department may serve a notice of hearing or a complaint on an applicant, licensee, or registrant in an action or proceeding for a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 by regular mail and by certified mail, return receipt requested, to the applicant's, licensee's, or registrant's last known address, by serving the notice on the applicant, licensee, or registrant, or by making a reasonable attempt to serve the notice on the applicant, licensee, or registrant. For purposes of this subsection, if service is by mail, service is effective 3 days after the date of mailing, and nondelivery does not affect the validity of the service if the nondelivery was caused by the refusal of the applicant, licensee, or registrant to accept service.

(3) A license or registration is not transferable.

(4) If the department is required or permitted under this article to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department; authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address; and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2016, Act 49, Eff. June 13, 2016.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

**Popular name:** Act 368

### **333.16193 Chemical analysis; implied consent to submit.**

Sec. 16193. Acceptance of a license or registration under this article constitutes implied consent to submit to a chemical analysis under section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

**History:** Add. 2003, Act 234, Imd. Eff. Dec. 29, 2003.

**Popular name:** Act 368



### **333.16194 Expiration of licenses and registrations for health professions; authority to issue part-term licenses and registrations.**

Sec. 16194. (1) Licenses and registrations for health professions expire on dates prescribed by the department by rule, unless sooner terminated by death of the individual licensed or registered or otherwise terminated pursuant to this part.

(2) Administrative authority to issue part-term licenses and registrations due to changing the terms from annual to a longer term in subsection (1) and to provide for initial issuances for terms longer or shorter than a normal term is granted in section 1222.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**Administrative rules:** R 338.7001 et seq. of the Michigan Administrative Code.

### **333.16196 License or registration of individual inducted or entering into service; continuation; notice.**

Sec. 16196. The license or registration of an individual practicing his or her profession while in active service in the military service of the United States, an auxiliary thereof, or the United States public health service, who was licensed or registered at the time of induction or entering into service, continues in effect without further action by the individual until discharge or leaving the service. The individual shall notify the board of the military service or federal employment and the cessation thereof.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.16201 Renewal of license or registration; mailing notice; electronic mail; failure to receive notice; failure to renew; relicensing or reregistration; temporary license or registration; authority to impose sanctions not terminated by expiration or surrender of license or registration.**

Sec. 16201. (1) A licensee or registrant shall renew the license or registration on or before the expiration date as prescribed by rule. The department shall mail a notice to the licensee or registrant at the last known address on file with a board, or may send the notice by electronic mail to a licensee or registrant described in section 16192(4), advising of the time, procedure, and fee for renewal. Failure of the licensee or registrant to receive notice under this subsection does not relieve the licensee or registrant of the responsibility for renewing his or her license or registration.

(2) A license or registration not renewed by the expiration date may be renewed within 60 days after the expiration date on application, payment of renewal and late renewal fees, and fulfillment of any continued competency or continuing education requirements set forth in this article or rules promulgated under this article. The licensee or registrant may continue to practice and use the title during the 60-day time period.

(3) If a license or registration is not renewed within 60 days after the expiration date under subsection (2), the license or registration is considered null and void. The licensee shall not practice or use the title and a registrant shall not use the title. Except as otherwise provided by rule, a person may be relicensed or reregistered within 3 years after the expiration date on application, payment of the application processing, renewal, and late renewal fees, and fulfillment of any continued competency or continuing education requirements in effect on the expiration date, or that would have been required had the individual renewed his or her license or registration under subsection (1). A temporary license or registration may be issued under section 16181 pending the results of action taken under this subsection.

(4) Except as otherwise provided in this article or by rule, a person may be relicensed or reregistered more than 3 years after the expiration date on application as a new applicant, meeting all licensure or registration requirements in effect at the time of application, taking or retaking and passing any examinations required for initial licensure or registration, and payment of fees required of new applicants.

(5) The expiration or surrender of a license or registration does not terminate the board's authority to impose sanctions on the licensee or registrant whose license or registration has expired or been surrendered.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1981, Act 79, Imd. Eff. June 30, 1981;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 2016, Act 49, Eff. June 13, 2016.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular name: Act 368

### **333.16203 Repealed. 1986, Act 174, Imd. Eff. July 7, 1986.**

**Compiler's note:** The repealed section pertained to relicensing or reregistration of individuals and to temporary licenses.

Popular name: Act 368

### **333.16204 Completion of continuing education as condition for license renewal; completion of hours or courses in pain and symptom management; rules; certain individuals excluded.**

Sec. 16204. (1) Effective for the renewal of licenses or registrations issued under this article and expiring after January 1, 1997 if the completion of continuing education is a condition for renewal, the appropriate board shall by rule require an applicant for renewal to complete an appropriate number of hours or courses in pain and symptom management. Rules promulgated by a board under section 16205(2) for continuing education in pain and symptom management shall cover both course length and content and shall take into consideration the recommendation for that health care profession by the interdisciplinary advisory committee created in section 16204a. A board shall submit the notice of public hearing for the rules as required under section 42 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.242, not later than 90 days after the first interdisciplinary advisory committee makes its initial recommendations and shall promulgate the rules as expeditiously as possible.

(2) If a board proposes rules under section 16205(2) to institute a requirement that continuing education be a mandatory condition for the renewal of a license or registration issued under this article, the rules shall require, as part of the continuing education requirements, completion of an appropriate number of hours or courses in pain and symptom management, taking into consideration the recommendation for that health care profession by the interdisciplinary advisory committee created in section 16204a.

(3) This section does not apply to individuals licensed or registered under part 184 or 188.

**History:** Add. 1994, Act 234, Imd. Eff. June 30, 1994;—Am. 2005, Act 273, Imd. Eff. Dec. 19, 2005.

Popular name: Act 368

### **333.16204a Advisory committee on pain and symptom management; creation; members; compensation; expenses; terms; duties; review of guidelines.**

Sec. 16204a. (1) Subject to subsection (2), an advisory committee on pain and symptom management is created in the department. The committee consists of the following members appointed in the following manner:

(a) The Michigan board of medicine created in part 170 and the Michigan board of osteopathic medicine and surgery created in part 175 each shall appoint 2 members, 1 of whom is a physician specializing in primary care and 1 of whom is a physician certified in the specialty of pain medicine by 1 or more national professional organizations approved by the department of consumer and industry services, including, but not limited to, the American board of medical specialists or the American board of pain medicine.

(b) One psychologist who is associated with the education and training of psychology students, appointed by the Michigan board of psychology created in part 182.

(c) One individual appointed by the governor who is representative of the general public.

(d) One registered professional nurse with training in pain and symptom management who is associated with the education and training of nursing students, appointed by the Michigan board of nursing created in part 172.

(e) One dentist with training in pain and symptom management who is associated with the education and training of dental students, appointed by the Michigan board of dentistry created in part 166.

(f) One pharmacist with training in pain and symptom management who is associated with the education and training of pharmacy students appointed by the Michigan board of pharmacy created in part 177.

(g) One individual appointed by the governor who represents the Michigan hospice organization or its successor.

(h) One representative from each of the state's medical schools, appointed by the governor.

(i) One individual appointed by the governor who has been diagnosed as a chronic pain sufferer.

(j) One physician's assistant with training in pain and symptom management appointed by the Michigan task force on physician's assistants.

(k) The director of the department of consumer and industry services or his or her designee, who shall serve as chairperson.

(l) The director of the department of community health or his or her designee.

(2) Advisory committee members appointed under subsection (1)(a) through (j) shall receive per diem

compensation as established by the legislature and shall be reimbursed for expenses under section 1216.

(3) The advisory committee members appointed under subsection (1)(a) through (j) shall be appointed by May 15, 1999. A member of the advisory committee shall serve for a term of 2 years or until a successor is appointed, whichever is later. A vacancy on the advisory committee shall be filled in the same manner as the original appointment.

(4) The advisory committee shall do all of the following, as necessary:

(a) At least once annually consult with all of the following boards to develop an integrated approach to understanding and applying pain and symptom management techniques:

(i) All licensure boards created under this article, except the Michigan board of veterinary medicine.

(ii) The Michigan board of social work created in section 18505.

(b) Hold a public hearing in the same manner as provided for a public hearing held under the administrative procedures act of 1969, within 90 days after the members of the advisory committee are appointed under subsection (1) to gather information from the general public on issues pertaining to pain and symptom management.

(c) Develop and encourage the implementation of model core curricula on pain and symptom management.

(d) Develop recommendations to the licensing and registration boards and the task force created under this article on integrating pain and symptom management into the customary practice of health care professionals and identifying the role and responsibilities of the various health care professionals in pain and symptom management.

(e) Advise the licensing and registration boards created under this article on the duration and content of continuing education requirements for pain and symptom management.

(f) Annually report on the activities of the advisory committee and make recommendations on the following issues to the director of the department of consumer and industry services and to the director of the department of community health:

(i) Pain management educational curricula and continuing educational requirements of institutions providing health care education.

(ii) Information about the impact and effectiveness of previous recommendations, if any, that have been implemented, including, but not limited to, recommendations made under subdivision (d).

(iii) Activities undertaken by the advisory committee in complying with the duties imposed under subdivisions (c) and (d).

(g) Beginning in January of 2000, annually review any changes occurring in pain and symptom management.

(5) In making recommendations and developing written materials under subsection (4), the advisory committee shall review guidelines on pain and symptom management issued by the United States department of health and human services.

**History:** Add. 1994, Act 232, Imd. Eff. June 30, 1994;—Am. 1998, Act 421, Eff. Apr. 1, 1999;—Am. 2001, Act 234, Imd. Eff. Jan. 3, 2002.

**Compiler's note:** For transfer of the advisory committee on pain and symptom management to the department of community health by Type II transfer, see. E.R.O. No. 2003-1, compiled at MCL 445.2011.

**Popular name:** Act 368

### **333.16204b Treatment of pain; enactment of legislation.**

Sec. 16204b. The legislature finds that the treatment of pain is an appropriate issue for the legislature to consider, and that the citizens of this state would be well served by the enactment of legislation that accomplishes all of the following:

(a) Provides more and better information to health care consumers regarding the medical treatment of pain, health care coverage and benefits for the treatment of pain, and the education of health professionals in pain and symptom management.

(b) Provides for the appointment of an advisory body to study and make recommendations on model core curricula on pain and symptom management for the institutions in this state providing health care education, continuing education for health professionals on pain and symptom management, and the integration of pain and symptom management into the customary practice of health care.

(c) Educates health professionals about the disciplinary process for state licensees and registrants, including, but not limited to, how the department of consumer and industry services processes allegations of wrongdoing against licensees and registrants.

**History:** Add. 1998, Act 422, Eff. Apr. 1, 1999;—Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002.

**Popular name:** Act 368

**333.16204c Medical treatment of pain; use of controlled substances; legislative findings; treatment by licensed health professionals; electronic monitoring system; “controlled substance” defined.**

Sec. 16204c. (1) The legislature finds that the use of controlled substances is appropriate in the medical treatment of certain forms of pain, and that efforts to control diversion or improper administration of controlled substances should not interfere with the legitimate, medically recognized use of those controlled substances to relieve pain and suffering.

(2) The legislature finds that some patients in this state with pain are unable to obtain from their health care providers sufficient pain relief through the prescription of controlled substances, especially controlled substances included in schedule 2 under section 7214.

(3) It is the intent of the legislature to permit and facilitate adequate treatment for pain by licensed health professionals, including, but not limited to, the prescription or dispensing of controlled substances included in schedule 2 under section 7214, when medically appropriate, and to enable regulatory and law enforcement agencies to prevent the abuse and diversion of controlled substances by creating an electronic monitoring system.

(4) As used in this section, “controlled substance” means that term as defined in section 7104.

**History:** Add. 1998, Act 423, Eff. Apr. 1, 1999;—Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002.

**Popular name:** Act 368

**333.16204d Information booklet on pain; development by department of consumer and industry services; educational program for health professionals.**

Sec. 16204d. (1) The department of consumer and industry services, in consultation with the department of community health, shall develop, publish, and distribute an informational booklet on pain. The department of consumer and industry services shall include at least all of the following in the informational booklet:

(a) Pain management educational curricula and continuing educational requirements of institutions providing health care education recommended by the advisory committee on pain and symptom management under section 16204a.

(b) Other information considered relevant or useful by the department of consumer and industry services.

(2) The department of consumer and industry services, in conjunction with the controlled substances advisory commission created in article 7, shall develop and conduct an educational program for health professionals who are licensed under part 73 to prescribe or dispense, or both, controlled substances. The department of consumer and industry services shall include, at a minimum, all of the following in the educational program:

(a) Information on how the department of consumer and industry services processes allegations of wrongdoing against licensees under this article and article 17, including, but not limited to, how the permanent historical record is maintained for each licensee, how and why a review of the permanent historical record is done, and how the decision is made to issue a formal complaint against a licensee.

(b) Information on the disciplinary process, including a licensee's rights and duties if an allegation of wrongdoing is filed against the licensee or if some other circumstance occurs that causes or requires the department of consumer and industry services to review a licensee's permanent historical record.

(c) Other information considered relevant or useful by the department of consumer and industry services or the controlled substances advisory commission, especially information that would address the findings and statements of intent contained in section 16204c.

**History:** Add. 1998, Act 423, Eff. Apr. 1, 1999;—Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002.

**Popular name:** Act 368

**333.16205 Attendance at educational programs as condition to license renewal; waiver; rules for assessing continued competence.**

Sec. 16205. (1) A board which requires evidence of attendance at educational programs as a condition to license renewal may waive those requirements if, upon written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, absence from the continental United States, or a circumstance beyond the control of the licensee which the board considers good and sufficient.

(2) A board may promulgate rules to establish a system of assessing the continued competence of licensees as a condition of periodic license renewal.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1984, Act 268, Imd. Eff. Dec. 18, 1984;—Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986.

**Popular name:** Act 368

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### **333.16206 Electronic continuing education tracking system; agreement with nongovernmental entity; rules.**

Sec. 16206. (1) The department may enter into an agreement with an entity that is not an agency of a state or the federal government to provide an electronic continuing education tracking system that provides an electronic record of the continuing education courses, classes, or programs completed by all of the individuals who are licensed or registered under this article. All of the following apply to an electronic system provided by an agreement under this subsection:

(a) All continuing education tracking provided by the system must accurately reflect the continuing education requirements under this article and rules promulgated under this article.

(b) A confirmation of completion of continuing education requirements generated by the system is considered verification of completion of those requirements for renewal of a license or registration and for purposes of any audit of licensees or registrants conducted by the department.

(c) The system must provide access to continuing education information about an individual who is licensed or registered under this article to the individual, to the appropriate board for the individual's health profession, and to the department.

(2) The department shall promulgate any rules it considers appropriate to implement and administer this section.

**History:** Add. 2016, Act 29, Eff. June 6, 2016.

**Popular name:** Act 368

### **333.16208 Expired. 1978, Act 368, Eff. Sept. 30, 1984.**

**Compiler's note:** The expired section pertained to assessing continued competency of licensees. Subsequent to its expiration this section was repealed by Act 268 of 1984.

**Popular name:** Act 368

### **333.16211 Individual historical record; creation; contents; review by department; retention of unsubstantiated allegations; removal; review of record by licensee or applicant.**

Sec. 16211. (1) The department shall create and maintain a permanent historical record for each licensee and registrant with respect to information and data transmitted pursuant to law.

(2) The individual historical record shall include a written allegation against the licensee or registrant that is substantiated after investigation.

(3) The individual historical record may include other items concerning a licensee's or registrant's record of practice that the appropriate board determines will facilitate proper and periodic review, but only those items as designated by rule.

(4) The department shall promptly review the entire file of a licensee or registrant, including all prior matters with respect to which no action was taken at the time, with respect to whom there is received 1 or more of the following:

(a) A notice of revocation, suspension, or limitation of staff privileges or a change in employment status due to disciplinary action by a licensed health facility.

(b) A written allegation of a violation of this article, article 7, or a rule promulgated under this article or article 7 that is substantiated after investigation.

(c) A notice of disciplinary action by a health professional society.

(d) An adverse malpractice settlement, award, or judgment.

(e) Written notice of 1 or more of the following:

(i) A felony conviction.

(ii) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years.

(iii) A misdemeanor conviction, if the misdemeanor involves the illegal delivery, possession, or use of alcohol or a controlled substance.

(f) Notice that a licensee or registrant is ineligible to participate as a provider in a federally funded health insurance or health benefits program based upon the licensee's or registrant's failure to meet the program's standards of professional practice. A certified copy of the action or final order making the licensee or registrant ineligible is sufficient notice for purposes of this subdivision.

(g) A report or notice under section 16222.

(h) Notice of a disciplinary action by a licensure, registration, disciplinary, or specialty certification board in another state.

(5) The department shall retain written allegations that are unsubstantiated for 5 years, after which the department shall remove the allegations from the file, if no further allegations against the licensee or



registrant have been received by the department within the 5-year period.

(6) Except as provided in section 16231(6), a licensee, registrant, or applicant may review his or her individual historical record.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16213 Retention of records.**

Sec. 16213. (1) An individual licensed under this article shall keep and maintain a record for each patient for whom he or she has provided medical services, including a full and complete record of tests and examinations performed, observations made, and treatments provided. Unless a longer retention period is otherwise required under federal or state laws or regulations or by generally accepted standards of medical practice, a licensee shall keep and retain each record for a minimum of 7 years from the date of service to which the record pertains. The records shall be maintained in such a manner as to protect their integrity, to ensure their confidentiality and proper use, and to ensure their accessibility and availability to each patient or his or her authorized representative as required by law. A licensee may destroy a record that is less than 7 years old only if both of the following are satisfied:

(a) The licensee sends a written notice to the patient at the last known address of that patient informing the patient that the record is about to be destroyed, offering the patient the opportunity to request a copy of that record, and requesting the patient's written authorization to destroy the record.

(b) The licensee receives written authorization from the patient or his or her authorized representative agreeing to the destruction of the record.

(2) If a licensee is unable to comply with this section, the licensee shall employ or contract, arrange, or enter into an agreement with another health care provider, a health facility or agency, or a medical records company to protect, maintain, and provide access to those records required under subsection (1).

(3) If a licensee or registrant sells or closes his or her practice, retires from practice, or otherwise ceases to practice under this article, the licensee or the personal representative of the licensee, if the licensee is deceased, shall not abandon the records required under this section and shall send a written notice to the department that specifies who will have custody of the medical records and how a patient may request access to or copies of his or her medical records and shall do either of the following:

(a) Transfer the records required under subsection (1) to any of the following:

(i) A successor licensee.

(ii) If requested by the patient or his or her authorized representative, to the patient or a specific health facility or agency or other health care provider licensed under article 15.

(iii) A health care provider, a health facility or agency, or a medical records company with which the licensee had contracted or entered into an agreement to protect, maintain, and provide access to those records required under subsection (1).

(b) In accordance with subsection (1), as long as the licensee or the personal representative of the licensee, if the licensee is deceased, sends a written notice to the last known address of each patient for whom he or she has provided medical services and receives written authorization from the patient or his or her authorized representative, destroy the records required under subsection (1). The notice shall provide the patient with 30 days to request a copy of his or her record or to designate where he or she would like his or her medical records transferred and shall request from the patient within 30 days written authorization for the destruction of his or her medical records. If the patient fails to request a copy or transfer of his or her medical records or to provide the licensee with written authorization for the destruction, then the licensee or the personal representative of the licensee shall not destroy those records that are less than 7 years old but may destroy, in accordance with subsection (4), those that are 7 years old or older.

(4) Except as otherwise provided under this section or federal or state laws and regulations, records required to be maintained under subsection (1) may be destroyed or otherwise disposed of after being maintained for 7 years. If records maintained in accordance with this section are subsequently destroyed or otherwise disposed of, those records shall be shredded, incinerated, electronically deleted, or otherwise disposed of in a manner that ensures continued confidentiality of the patient's health care information and any other personal information relating to the patient. If records are destroyed or otherwise disposed of as provided under this subsection, the department may take action including, but not limited to, contracting for or making other arrangements to ensure that those records and any other confidential identifying information related to the patient are properly destroyed or disposed of to protect the confidentiality of patient's health care information and any other personal information relating to the patient. Before the department takes action in

accordance with this subsection, the department, if able to identify the licensee responsible for the improper destruction or disposal of the medical records at issue, shall send a written notice to that licensee at his or her last known address or place of business on file with the department and provide the licensee with an opportunity to properly destroy or dispose of those medical records as required under this subsection unless a delay in the proper destruction or disposal may compromise the patient's confidentiality. The department may assess the licensee with the costs incurred by the department to enforce this subsection.

(5) A person who fails to comply with this section is subject to an administrative fine of not more than \$10,000.00 if the failure was the result of gross negligence or willful and wanton misconduct.

(6) Nothing in this section shall be construed to create or change the ownership rights to any medical records.

(7) As used in this section:

(a) "Medical record" or "record" means information, oral or recorded in any form or medium, that pertains to a patient's health care, medical history, diagnosis, prognosis, or medical condition and that is maintained by a licensee in the process of providing medical services.

(b) "Medical records company" means a person who contracts for or agrees to protect, maintain, and provide access to medical records for a health care provider or health facility or agency in accordance with this section.

(c) "Patient" means an individual who receives or has received health care from a health care provider or health facility or agency. Patient includes a guardian, if appointed, and a parent, guardian, or person acting in loco parentis, if the individual is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this section with respect to his or her medical records relating to that care.

**History:** Add. 2006, Act 481, Imd. Eff. Dec. 22, 2006.

**Popular name:** Act 368

### **333.16215 Delegation of acts, tasks, or functions to licensed or unlicensed individual; supervision; rules; immunity; third party reimbursement or worker's compensation benefits.**

Sec. 16215. (1) Subject to subsections (2) to (6), a licensee who holds a license other than a health profession subfield license may delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. A licensee shall not delegate an act, task, or function under this section if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the licensee under this article.

(2) Subject to subsection (1) and except as otherwise provided in this subsection and subsections (3) and (4), a licensee who is an allopathic physician or osteopathic physician and surgeon shall delegate an act, task, or function that involves the performance of a procedure that requires the use of surgical instrumentation only to an individual who is licensed under this article. A licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in this subsection to an individual who is not licensed under this article if the unlicensed individual is 1 or more of the following and if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure:

(a) A student enrolled in a school of medicine or osteopathic medicine approved by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery.

(b) A student enrolled in a physician's assistant training program approved by the joint physician's assistant task force created under part 170.

(3) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article and who is 1 of the following:

(a) Performing acupuncture.

(b) Surgically removing only bone, skin, blood vessels, cartilage, dura mater, ligaments, tendons, pericardial tissue, or heart valves only from a deceased individual for transplantation, implantation, infusion, injection, or other medical or scientific purpose.

(4) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article if the procedure is directly supervised by a licensed allopathic physician or osteopathic

physician and surgeon who is physically present during the performance of the procedure, the delegation of such procedure is not prohibited or otherwise restricted by the board or that health facility or agency, and the delegation of that act, task, or function is specifically authorized by that health facility or agency to be delegated and performed by either of the following unlicensed individuals:

(a) A surgical technologist who meets the qualifications established by the health facility or agency with which he or she is employed or under contract with.

(b) A surgical first assistant who meets the qualifications established by the health facility or agency with which he or she is employed or under contract with.

(5) A board may promulgate rules to further prohibit or otherwise restrict delegation of specific acts, tasks, or functions to a licensed or unlicensed individual if the board determines that the delegation constitutes or may constitute a danger to the health, safety, or welfare of the patient or public.

(6) To promote safe and competent practice, a board may promulgate rules to specify conditions under which, and categories and types of licensed and unlicensed individuals for whom, closer supervision may be required for acts, tasks, and functions delegated under this section.

(7) An individual who performs acts, tasks, or functions delegated pursuant to this section does not violate the part that regulates the scope of practice of that health profession.

(8) The amendatory act that added this subsection does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to perform those services under subsection (4).

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1990, Act 279, Eff. Mar. 28, 1991;—Am. 1999, Act 60, Eff. Sept. 1, 1999;—Am. 2005, Act 211, Imd. Eff. Nov. 17, 2005.

**Popular name:** Act 368

### **333.16216 Disciplinary subcommittee for board or task force; members; voting; chairperson; final decision; set aside by department; issuance of different final action; inclusion of final decision on website.**

Sec. 16216. (1) The chair of each board or task force shall appoint 1 or more disciplinary subcommittees for that board or task force. A disciplinary subcommittee for a board or task force shall consist of 2 public members and 3 professional members from the board or task force.

(2) A final decision of a disciplinary subcommittee finding a violation of this article, article 7, or article 8 requires a majority vote of the members appointed and serving on the disciplinary subcommittee.

(3) A final decision of a disciplinary subcommittee imposing a sanction under this article, article 7, or article 8 or a final decision of a disciplinary subcommittee other than a final decision described in subsection (2) requires a majority vote of the members appointed and serving on the disciplinary subcommittee with an affirmative vote by at least 1 public member.

(4) The chair of a board or task force shall appoint a public member of the disciplinary subcommittee of that board or task force as the chairperson of that disciplinary subcommittee. The chair of a board or task force shall not serve as a member of the disciplinary subcommittee of that board or task force.

(5) The department may review a final decision of a disciplinary subcommittee within 30 days after the date of the disciplinary subcommittee's decision. If the department determines that the action taken by a disciplinary subcommittee does not protect the health, safety, and welfare of the public, the department, with the approval of the board chair, may set aside the decision of the disciplinary subcommittee and issue a different final action. The final action of the department serves as the final action on the matter and is subject to judicial review in the same manner as the final decision of the disciplinary subcommittee.

(6) Beginning January 1, 2015, the department shall include on its public licensing and registration website each final decision that imposes disciplinary action against a licensee, including the reason for and description of that disciplinary action.

**History:** Add. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 98, Eff. July 1, 2014;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

**Compiler's note:** Former MCL 333.16216, which pertained to disciplinary subcommittee for board or task force, was repealed by Act 87 of 1993, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16216a Member of disciplinary subcommittee; conflict of interest; disclosure; "conflict of interest" defined.**

Sec. 16216a. (1) A member of a disciplinary subcommittee shall not participate in making a decision of that subcommittee that 1 or more of the grounds listed in section 16221 exist, in any investigation, or in the imposition of sanctions under section 16226, concerning a licensee or registrant if that subcommittee member

has a conflict of interest.

(2) A member of a disciplinary subcommittee shall disclose a potential conflict of interest described in subsection (1) before that subcommittee takes any action described in subsection (1).

(3) As used in this section, "conflict of interest" means any of the following:

(a) Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.

(b) Had a past or has a present business or professional relationship with the individual that the disciplinary subcommittee is investigating or against whom the disciplinary subcommittee is considering sanctions.

(c) Has given expert testimony in a medical malpractice action against or on behalf of the individual that the disciplinary subcommittee is investigating or against whom the disciplinary subcommittee is considering sanctions.

(d) Has other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under this act.

**History:** Add. 2014, Act 95, Eff. July 1, 2014.

**Popular name:** Act 368

\*\*\*\*\* 333.16221 THIS SECTION IS AMENDED EFFECTIVE AUGUST 1, 2017: See 333.16221.amended \*\*\*\*\*

### **333.16221 Investigation of licensee, registrant, or applicant for licensure or registration; hearings, oaths, and testimony; complaint; grounds for proceeding under MCL 333.16226.**

Sec. 16221. The department shall investigate any allegation that 1 or more of the grounds for disciplinary subcommittee action under this section exist, and may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the department shall provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) Except as otherwise specifically provided in this section, a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession.

(b) Personal disqualifications, consisting of 1 or more of the following:

(i) Incompetence.

(ii) Subject to sections 16165 to 16170a, substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(iii) Mental or physical inability reasonably related to and adversely affecting the licensee's or registrant's ability to practice in a safe and competent manner.

(iv) Declaration of mental incompetence by a court of competent jurisdiction.

(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is

conclusive evidence of the conviction.

(xii) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(c) Prohibited acts, consisting of 1 or more of the following:

(i) Fraud or deceit in obtaining or renewing a license or registration.

(ii) Permitting a license or registration to be used by an unauthorized person.

(iii) Practice outside the scope of a license.

(iv) Obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Except as otherwise specifically provided in this section, unethical business practices, consisting of 1 or more of the following:

(i) False or misleading advertising.

(ii) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(iii) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Except as otherwise specifically provided in this section, unprofessional conduct, consisting of 1 or more of the following:

(i) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(ii) Betrayal of a professional confidence.

(iii) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.

(iv) Either of the following:

(A) A requirement by a licensee other than a physician or a registrant that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee or registrant has a financial interest.

(B) A referral by a physician for a designated health service that violates 42 USC 1395nn or a regulation promulgated under that section. For purposes of this subdivision, 42 USC 1395nn and the regulations promulgated under that section as they exist on June 3, 2002 are incorporated by reference. A disciplinary subcommittee shall apply 42 USC 1395nn and the regulations promulgated under that section regardless of the source of payment for the designated health service referred and rendered. If 42 USC 1395nn or a regulation promulgated under that section is revised after June 3, 2002, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this sub-subparagraph, "designated health service" means that term as defined in 42 USC 1395nn and the regulations promulgated under that section and "physician" means that term as defined in sections 17001 and 17501.

(v) For a physician who makes referrals under 42 USC 1395nn or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for Medicaid and refusing to accept payment from Medicaid or Medicare as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which he or she provides surgical services is not subject to this subparagraph if a referred surgical procedure he or she performs in the facility is not reimbursed at a minimum of the appropriate Medicaid or Medicare outpatient fee schedule, including the combined technical and professional components.

(vi) Any conduct by a health professional with a patient while he or she is acting within the health profession for which he or she is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than appropriate examination, treatment, or comfort.

(vii) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(f) Failure to notify under section 16222(3) or (4).



(g) Failure to report a change of name or mailing address as required in section 16192.

(h) A violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article, article 7, or article 8, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222(1) or 16223.

(j) Failure to pay an installment of an assessment levied under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(l) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015, 17015a, 17017, 17515, or 17517.

(n) A violation of section 17016 or 17516.

(o) Failure to comply with section 9206(3).

(p) A violation of section 5654 or 5655.

(q) A violation of section 16274.

(r) A violation of section 17020 or 17520.

(s) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.

(t) A violation of section 17764(2).

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 15, Imd. Eff. May 15, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995;—Am. 1996, Act 273, Eff. Mar. 31, 1997;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 1998, Act 227, Imd. Eff. July 3, 1998;—Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 402, Imd. Eff. June 3, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2011, Act 222, Imd. Eff. Nov. 15, 2011;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2012, Act 501, Eff. Jan. 1, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014;—Am. 2014, Act 411, Eff. Mar. 30, 2015.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Section 2 of Act 319 of 1986 provides: "Section 16221(e)(iv) of Act No. 368 of the Public Acts of 1978, as added by this amendatory act, shall take effect April 1, 1987."

**Popular name:** Act 368

\*\*\*\*\* 333.16221.amended THIS AMENDED SECTION IS EFFECTIVE AUGUST 1, 2017 \*\*\*\*\*

### **333.16221.amended Investigation of licensee, registrant, or applicant for licensure or registration; hearings, oaths, and testimony; complaint; grounds for proceeding under MCL 333.16226.**

Sec. 16221. The department shall investigate any allegation that 1 or more of the grounds for disciplinary subcommittee action under this section exist, and may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the department shall provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) Except as otherwise specifically provided in this section, a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession.

(b) Personal disqualifications, consisting of 1 or more of the following:

(i) Incompetence.

(ii) Subject to sections 16165 to 16170a, substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(iii) Mental or physical inability reasonably related to and adversely affecting the licensee's or registrant's ability to practice in a safe and competent manner.

(iv) Declaration of mental incompetence by a court of competent jurisdiction.

(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy

of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(xii) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(c) Prohibited acts, consisting of 1 or more of the following:

(i) Fraud or deceit in obtaining or renewing a license or registration.

(ii) Permitting a license or registration to be used by an unauthorized person.

(iii) Practice outside the scope of a license.

(iv) Obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Except as otherwise specifically provided in this section, unethical business practices, consisting of 1 or more of the following:

(i) False or misleading advertising.

(ii) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(iii) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Except as otherwise specifically provided in this section, unprofessional conduct, consisting of 1 or more of the following:

(i) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(ii) Betrayal of a professional confidence.

(iii) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.

(iv) Either of the following:

(A) A requirement by a licensee other than a physician or a registrant that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee or registrant has a financial interest.

(B) A referral by a physician for a designated health service that violates 42 USC 1395nn or a regulation promulgated under that section. For purposes of this subdivision, 42 USC 1395nn and the regulations promulgated under that section as they exist on June 3, 2002 are incorporated by reference. A disciplinary subcommittee shall apply 42 USC 1395nn and the regulations promulgated under that section regardless of the source of payment for the designated health service referred and rendered. If 42 USC 1395nn or a regulation promulgated under that section is revised after June 3, 2002, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this sub-subparagraph, "designated health service" means that term as defined in 42 USC 1395nn and the regulations promulgated under that section and "physician" means that term as defined

in sections 17001 and 17501.

(v) For a physician who makes referrals under 42 USC 1395nn or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for Medicaid and refusing to accept payment from Medicaid or Medicare as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which he or she provides surgical services is not subject to this subparagraph if a referred surgical procedure he or she performs in the facility is not reimbursed at a minimum of the appropriate Medicaid or Medicare outpatient fee schedule, including the combined technical and professional components.

(vi) Any conduct by a health professional with a patient while he or she is acting within the health profession for which he or she is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than appropriate examination, treatment, or comfort.

(vii) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(f) Failure to notify under section 16222(3) or (4).

(g) Failure to report a change of name or mailing address as required in section 16192.

(h) A violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article, article 7, or article 8, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222(1) or 16223.

(j) Failure to pay an installment of an assessment levied under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(l) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015, 17015a, 17017, 17515, or 17517.

(n) A violation of section 17016 or 17516.

(o) Failure to comply with section 9206(3).

(p) A violation of section 5654 or 5655.

(q) A violation of section 16274.

(r) A violation of section 17020 or 17520.

(s) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.

(t) A violation of section 17764(2).

(u) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 15, Imd. Eff. May 15, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995;—Am. 1996, Act 273, Eff. Mar. 31, 1997;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 1998, Act 227, Imd. Eff. July 3, 1998;—Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 402, Imd. Eff. June 3, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2011, Act 222, Imd. Eff. Nov. 15, 2011;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2012, Act 501, Eff. Jan. 1, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014;—Am. 2014, Act 411, Eff. Mar. 30, 2015;—Am. 2016, Act 379, Eff. Aug. 1, 2017.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

Section 2 of Act 319 of 1986 provides: "Section 16221(e)(iv) of Act No. 368 of the Public Acts of 1978, as added by this amendatory act, shall take effect April 1, 1987."

**Popular name:** Act 368

### **333.16221a Investigation of health care provider's recommendation or treatment under right to try act; definitions.**

Sec. 16221a. (1) Except in the case of gross negligence or willful misconduct as determined by the department, a health care provider's recommendation or treatment provided as authorized under the right to try act is not grounds for the department to investigate under section 16221 or for disciplinary action against a licensee under section 16226.

(2) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for

whether serious injury to a person would result.

(b) "Willful misconduct" means conduct committed with an intentional or reckless disregard for the safety of others, as by failing to exercise reasonable care to prevent a known danger.

**History:** Add. 2014, Act 346, Imd. Eff. Oct. 17, 2014.

**Popular name:** Act 368

**333.16222 Knowledge of violation; report to department; confidentiality of information; failure to make report; exception; identity of licensee or registrant making report; notice of criminal conviction or disciplinary action by another state.**

Sec. 16222. (1) A licensee or registrant who has knowledge that another licensee or registrant has committed a violation under section 16221, article 7, or article 8 or a rule promulgated under article 7 or article 8 shall report the conduct and the name of the subject of the report to the department. Information obtained by the department under this subsection is confidential and is subject to sections 16238 and 16244. Failure of a licensee or registrant to make a report under this subsection does not give rise to a civil cause of action for damages against the licensee or registrant, but the licensee or registrant is subject to administrative action under sections 16221 and 16226. This subsection does not apply to a licensee or registrant who obtains the knowledge of a violation while providing professional services to the licensee or registrant to whom the knowledge applies, who is serving on a duly constituted ethics or peer review committee of a professional association, or who is serving on a committee assigned a professional review function in a health facility or agency.

(2) Unless the licensee or registrant making a report under subsection (1) otherwise agrees in writing, the identity of the licensee or registrant making a report under subsection (1) shall remain confidential unless disciplinary proceedings under this part are initiated against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.

(3) A licensee or registrant shall notify the department of any criminal conviction within 30 days after the date of the conviction. Failure of a licensee or registrant to notify the department under this subsection shall result in administrative action under sections 16221 and 16226.

(4) A licensee or registrant shall notify the department of any disciplinary licensing or registration action taken by another state against the licensee or registrant within 30 days after the date of the action. This subsection includes, but is not limited to, a disciplinary action that is stayed pending appeal. Failure of a licensee or registrant to notify the department under this subsection shall result in administrative action under sections 16221 and 16226.

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014.

**Popular name:** Act 368

**333.16223 Impairment of licensee, registrant, or applicant; report; exception; liability.**

Sec. 16223. (1) Except as otherwise provided in this section, a licensee or registrant who has reasonable cause to believe that a licensee, registrant, or applicant is impaired shall report that fact to the department. For purposes of this subsection, a report filed with the committee or with the program consultants described in section 16168 is considered to be filed with the department. A licensee or registrant who fails to report under this subsection is not liable in a civil action for damages resulting from the failure to report, but the licensee or registrant is subject to administrative action under sections 16221 and 16226.

(2) This section does not apply to a licensee or registrant who is in a bona fide health professional-patient relationship with a licensee, registrant, or applicant believed to be impaired.

(3) A licensee or registrant who in good faith complies with this section is not liable for damages in a civil action or subject to prosecution in a criminal proceeding as a result of the compliance.

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**333.16224 Failure or refusal to submit to examination as grounds for denial or suspension of license; additional grounds for disciplinary actions.**

Sec. 16224. (1) Failure or refusal to submit to an examination that the department, a disciplinary subcommittee, or a board or task force is authorized to require under this part after reasonable notice and opportunity for a hearing constitutes a ground for denial or suspension of a license or registration until the examination is taken.

(2) Additional grounds for disciplinary action may be found in a part dealing with a specific health profession.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

\*\*\*\*\* 333.16226 THIS SECTION IS AMENDED EFFECTIVE AUGUST 1, 2017: See 333.16226.amended  
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**333.16226 Sanctions; determination; judicial review; maximum and minimum fine for violation of MCL 333.16221(a) or (b); completion of program or examination; permanent revocation; finding.**

Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

<u>Violations of Section 16221</u>	<u>Sanctions</u>
Subdivision (a), (b)(i), (b)(ii), (b)(iii), (b)(iv), (b)(v), (b)(vi), (b)(vii), (b)(ix), (b)(x), (b)(xi), or (b)(xii)	Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.
Subdivision (b)(viii)	Revocation, permanent revocation, or denial.
Subdivision (b)(xiii)	Permanent revocation for a violation described in subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.
Subdivision (c)(i)	Denial, revocation, suspension, probation, limitation, or fine.
Subdivision (c)(ii)	Denial, suspension, revocation, restitution, or fine.
Subdivision (c)(iii)	Probation, denial, suspension, revocation, restitution, or fine.
Subdivision (c)(iv) or (d)(iii)	Fine, probation, denial, suspension, revocation, permanent revocation, or restitution.
Subdivision (d)(i) or (d)(ii)	Reprimand, fine, probation, denial, or restitution.
Subdivision (e)(i), (e)(iii), (e)(iv), (e)(v), (h), or (s)	Reprimand, fine, probation, limitation, suspension, revocation, permanent revocation, denial, or restitution.
Subdivision (e)(ii)	Reprimand, probation, suspension,



or (i)	revocation, permanent revocation, restitution, denial, or fine.
Subdivision (e)(vi) or (e)(vii)	Probation, suspension, revocation, limitation, denial, restitution, or fine.
Subdivision (f)	Reprimand, denial, limitation, probation, or fine.
Subdivision (g)	Reprimand or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (p), or (r)	Reprimand, probation, suspension, revocation, permanent revocation, or fine.
Subdivision (l)	Reprimand, denial, or limitation.
Subdivision (m) or (o)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (n)	Revocation or denial.
Subdivision (q)	Revocation.
Subdivision (t)	Revocation, permanent revocation, fine, or restitution.

(2) Determination of sanctions for violations under this section shall be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine in an amount that does not exceed \$250,000.00 for a violation of section 16221(a) or (b). A disciplinary subcommittee shall impose a fine of at least \$25,000.00 if the violation of section 16221(a) or (b) results in the death of 1 or more patients.

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

(5) A disciplinary subcommittee shall impose the sanction of permanent revocation for a violation of section 16221(b)(xiii) if the violation occurred while the licensee or registrant was acting within the health profession for which he or she was licensed or registered.

(6) Except as otherwise provided in subsection (5), a disciplinary subcommittee shall not impose the sanction of permanent revocation under this section without a finding that the licensee or registrant engaged

in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 15, Imd. Eff. May 15, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 1996, Act 273, Eff. Mar. 31, 1997;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2011, Act 224, Imd. Eff. Nov. 15, 2011;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014;—Am. 2014, Act 412, Eff. Mar. 30, 2015.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

\*\*\*\*\* 333.16226.amended THIS AMENDED SECTION IS EFFECTIVE AUGUST 1, 2017 \*\*\*\*\*

**333.16226.amended Sanctions; determination; judicial review; maximum and minimum fine for violation of MCL 333.16221(a) or (b); completion of program or examination; permanent revocation; finding.**

Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

<u>Violations of Section 16221</u>	<u>Sanctions</u>
Subdivision (a), (b)(i), (b)(ii), (b)(iii), (b)(iv), (b)(v), (b)(vi), (b)(vii), (b)(ix), (b)(x), (b)(xi), or (b)(xii)	Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.
Subdivision (b)(viii)	Revocation, permanent revocation, or denial.
Subdivision (b)(xiii)	Permanent revocation for a violation described in subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.
Subdivision (c)(i)	Denial, revocation, suspension, probation, limitation, or fine.
Subdivision (c)(ii)	Denial, suspension, revocation, restitution, or fine.
Subdivision (c)(iii)	Probation, denial, suspension, revocation, restitution, or fine.
Subdivision (c)(iv) or (d)(iii)	Fine, probation, denial, suspension, revocation, permanent revocation, or restitution.

Subdivision (d)(i) or (d)(ii)	Reprimand, fine, probation, denial, or restitution.
Subdivision (e)(i), (e)(iii), (e)(iv), (e)(v), (h), or (s)	Reprimand, fine, probation, limitation, suspension, revocation, permanent revocation, denial, or restitution.
Subdivision (e)(ii) or (i)	Reprimand, probation, suspension, revocation, permanent revocation, restitution, denial, or fine.
Subdivision (e)(vi) or (e)(vii)	Probation, suspension, revocation, limitation, denial, restitution, or fine.
Subdivision (f)	Reprimand, denial, limitation, probation, or fine.
Subdivision (g)	Reprimand or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (p), or (r)	Reprimand, probation, suspension, revocation, permanent revocation, or fine.
Subdivision (l)	Reprimand, denial, or limitation.
Subdivision (m) or (o)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (n)	Revocation or denial.
Subdivision (q)	Revocation.
Subdivision (t)	Revocation, permanent revocation, fine, or restitution.
Subdivision (u)	Denial, revocation, probation, suspension, limitation, reprimand, or fine.

(2) Determination of sanctions for violations under this section shall be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the

holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine in an amount that does not exceed \$250,000.00 for a violation of section 16221(a) or (b). A disciplinary subcommittee shall impose a fine of at least \$25,000.00 if the violation of section 16221(a) or (b) results in the death of 1 or more patients.

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

(5) A disciplinary subcommittee shall impose the sanction of permanent revocation for a violation of section 16221(b)(xiii) if the violation occurred while the licensee or registrant was acting within the health profession for which he or she was licensed or registered.

(6) Except as otherwise provided in subsection (5), a disciplinary subcommittee shall not impose the sanction of permanent revocation under this section without a finding that the licensee or registrant engaged in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1986, Act 195, Imd. Eff. July 8, 1986;—Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986;—Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987;—Am. 1989, Act 15, Imd. Eff. May 15, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 1996, Act 273, Eff. Mar. 31, 1997;—Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997;—Am. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004;—Am. 2004, Act 214, Eff. Oct. 12, 2004;—Am. 2011, Act 224, Imd. Eff. Nov. 15, 2011;—Am. 2012, Act 499, Eff. Mar. 31, 2013;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 97, Eff. July 1, 2014;—Am. 2014, Act 412, Eff. Mar. 30, 2015;—Am. 2016, Act 379, Eff. Aug. 1, 2017.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16227 Suspension or revocation of license or registration; other sanction or action.**

Sec. 16227. (1) For an offense committed within 2 years after a previous offense of the same kind, a disciplinary subcommittee shall suspend the license or registration for a period of at least 180 days or revoke the license or registration.

(2) Section 16226 and this section do not limit any other sanction or additional action a disciplinary subcommittee is authorized to impose or take.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 97, Eff. July 1, 2014.

**Popular name:** Act 368

### **333.16228 Prescription of controlled substance; investigation; ad hoc review panel.**

Sec. 16228. (1) For an investigation involving the prescription of a controlled substance, the department may establish an ad hoc review panel to provide the department with expert information regarding a specific health profession or health specialty or a specific health care treatment or procedure as it relates to the investigation. The department shall establish an ad hoc review panel under this subsection as follows:

(a) The department shall triennially establish a pool of 10 physicians, 5 of whom are allopathic physicians licensed under part 170 and 5 of whom are osteopathic physicians licensed under part 175.

(b) For each ad hoc review panel, the department shall appoint 3 physicians from the pool established under subdivision (a).

(2) The ad hoc review panel shall provide the information described in subsection (1) to the department during the investigation process and before a formal complaint is issued.

**History:** Add. 1998, Act 423, Eff. Apr. 1, 1999.

**Popular name:** Act 368

### **333.16231 Allegation; review; investigation; compliance conference; duties of department following investigation; confidentiality of identity; complaint; failure to respond; conditions applicable to subsection (2)(a); "conflict of interest" defined.**

Sec. 16231. (1) A person or governmental entity that believes that a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 exists may submit an allegation of that fact to the department in writing.

(2) Subject to subsection (3), if the department determines after reviewing an application or an allegation

or a licensee's or registrant's file under section 16211(4) that there is a reasonable basis to believe that a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 exists, 1 of the following applies:

(a) Unless subdivision (b) applies, subject to subsection (10), with the authorization of a panel of at least 3 board members that includes the chair and at least 2 other members of the appropriate board or task force designated by the chair, the department shall investigate the alleged violation. Subject to subsection (10), if the panel fails to grant or deny authorization within 7 days after the board or task force receives a request for authorization, the department shall investigate. If the department believes that immediate jeopardy exists, the director or his or her designee shall authorize an investigation and notify the board chair of that investigation within 2 business days.

(b) If it reviews an allegation in writing under subsection (1) that concerns a licensee or registrant whose record created under section 16211 includes 1 substantiated allegation, or 2 or more written investigated allegations, from 2 or more different individuals or entities, received in the preceding 4 years, the department shall investigate the alleged violation. Authorization by a panel described in subdivision (a) is not required for an investigation by the department under this subdivision.

(3) If a person or governmental entity submits a written allegation under subsection (1) more than 4 years after the date of the incident or activity that is the basis of the alleged violation, the department may investigate the alleged violation in the manner described in subsection (2)(a) or (b), as applicable, but is not required to conduct an investigation under subsection (2)(a) or (b).

(4) If it receives information reported under section 16243(2) that indicates 3 or more malpractice settlements, awards, or judgments against a licensee in a period of 5 consecutive years or 1 or more malpractice settlements, awards, or judgments against a licensee totaling more than \$200,000.00 in a period of 5 consecutive years, whether or not a judgment or award is stayed pending appeal, the department shall investigate.

(5) At any time during an investigation or following the issuance of a complaint, the department may schedule a compliance conference under section 92 of the administrative procedures act of 1969, MCL 24.292. The conference may include the applicant, licensee, registrant, or individual, the applicant's, licensee's, registrant's, or individual's attorney, 1 member of the department's staff, and any other individuals approved by the department. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the conference and provide any assistance that is needed. At the compliance conference, the department shall attempt to reach agreement. If an agreement is reached, the department shall submit a written statement outlining the terms of the agreement, or a stipulation and final order, if applicable, or a request for dismissal to the appropriate disciplinary subcommittee for approval. If the agreement or stipulation and final order or request for dismissal is rejected by the disciplinary subcommittee, or if no agreement is reached, the department shall schedule a hearing before an administrative law judge. A party shall not make a transcript of the compliance conference. All records and documents of a compliance conference held before a complaint is issued are subject to section 16238.

(6) Within 90 days after an investigation is initiated under subsection (2), (3), or (4), the department shall do 1 or more of the following:

(a) Issue a formal complaint.

(b) Conduct a compliance conference under subsection (5).

(c) Issue a summary suspension.

(d) Issue a cease and desist order.

(e) Dismiss the allegation.

(f) Place in the complaint file not more than 1 written extension of not more than 30 days to take action under this subsection.

(7) Unless the person submitting an allegation under subsection (1) otherwise agrees in writing, the department shall keep the identity of a person that submitted the allegation confidential until disciplinary proceedings under this part are initiated against the subject of the allegation and the person that made the allegation is required to testify in the proceedings.

(8) The department shall serve a complaint under section 16192. The department shall include in the complaint a notice that the applicant, licensee, registrant, or individual who is the subject of the complaint has 30 days from the date of receipt to respond in writing to the complaint.

(9) The department shall treat the failure of an applicant, licensee, registrant, or individual to respond to a complaint within the 30-day period set forth in subsection (8) as an admission of the allegations contained in the complaint. The department shall notify the appropriate disciplinary subcommittee of the individual's failure to respond and shall forward a copy of the complaint to that disciplinary subcommittee. The



disciplinary subcommittee may then impose an appropriate sanction under this article, article 7, or article 8.

(10) All of the following apply for purposes of subsection (2)(a):

(a) If the chair of the board or task force has a conflict of interest, he or she shall appoint another member of the board or task force as his or her designee and shall not participate in the panel's decision to grant or deny authorization to the department to investigate an individual.

(b) A member of the board or task force shall not participate in the panel's decision to grant or deny authorization to the department to investigate an individual if that member has a conflict of interest. If the chair of the board or task force is notified that a member of the panel has a conflict of interest, the chair shall remove him or her from the panel and appoint another member of the board or task force to serve on the panel.

(c) A member of the board or task force who participates in or is requested to participate in the panel's decision to grant or deny authorization to the department to investigate an individual shall disclose to the department, to the chair of the board or task force, and to the other member of the panel a potential conflict of interest before those participants make that decision.

(11) As used in subsection (10), "conflict of interest" means any of the following:

(a) Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.

(b) Had a past or has a present business or professional relationship with the individual that the department is investigating or requesting authorization to investigate.

(c) Has given expert testimony in a medical malpractice action against or on behalf of the individual that the department is seeking authorization to investigate.

(d) Any other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under this act.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2010, Act 382, Imd. Eff. Dec. 22, 2010;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 95, Eff. July 1, 2014.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16231a Failure to reach agreement at compliance conference held under MCL 333.16231(4); hearing; conduct; determination by hearings examiner; request for continuance; representation; failure to appear as default; notice; sanction.**

Sec. 16231a. (1) If an agreement is not reached at a compliance conference held under section 16231(4), or if an agreement is reached but is rejected by a disciplinary subcommittee and the parties do not reach a new agreement, the department shall hold a hearing before a hearings examiner employed by or under contract to the department. If an agreement is reached but is rejected by the disciplinary subcommittee, the department shall not hold another compliance conference, but may continue to try and reach a new agreement. The hearings examiner shall conduct the hearing within 60 days after the compliance conference at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee, unless a new agreement is reached and approved by the disciplinary subcommittee. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the hearing and provide such assistance as needed.

(2) The hearings examiner shall determine if there are grounds for disciplinary action under section 16221 or if the applicant, licensee, or registrant has violated this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8. The hearings examiner shall prepare recommended findings of fact and conclusions of law for transmittal to the appropriate disciplinary subcommittee. The hearings examiner shall not recommend or impose penalties.

(3) The applicant, licensee, or registrant who is the subject of the complaint or the department of attorney general may request and be granted not more than 1 continuance by the hearings examiner for good cause shown.

(4) The applicant, licensee, or registrant may be represented at the hearing by legal counsel. The department shall be represented at the hearing by an assistant attorney general from the department of attorney general. The assistant attorney general shall not be the same individual assigned by the department of attorney general to provide legal counsel to the board or the special assistant attorney general described in section 16237.

(5) Unless a continuance has been granted under subsection (3), failure of an applicant, licensee, or registrant to appear or be represented at a scheduled hearing shall be treated by the hearings examiner as a default and an admission of the allegations contained in the complaint. The hearings examiner shall notify the

appropriate disciplinary subcommittee of the individual's failure to appear and forward a copy of the complaint and any other relevant records to the disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under any combination of this article, article 7, or article 8.

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

**Popular name:** Act 368

### **333.16232 Hearings; rules.**

Sec. 16232. (1) The department shall provide an opportunity for a hearing in connection with the denial, reclassification, limitation, reinstatement, suspension, or revocation of a license or a proceeding to reprimand, fine, order restitution, or place a licensee on probation.

(2) The department shall provide an opportunity for a hearing in connection with the denial, limitation, suspension, revocation, or reinstatement of a registration or a proceeding to reprimand, fine, order restitution, or place a registrant on probation.

(3) A disciplinary subcommittee shall meet within 60 days after receipt of the recommended findings of fact and conclusions of law from a hearings examiner to impose a penalty.

(4) Only the department shall promulgate rules governing hearings under this article, article 7, or article 8 and related preliminary proceedings.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 95, Eff. July 1, 2014.

**Popular name:** Act 368

### **333.16233 Investigation; order to cease and desist; hearing; violation of order; summary suspension of license or registration; notice from federal agency.**

Sec. 16233. (1) The department may conduct an investigation necessary to administer and enforce this article. Investigations may include written, oral, or practical tests of a licensee's or registrant's competency. The department may establish a special paralegal unit to assist the department.

(2) The department may order an individual to cease and desist from a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8.

(3) An individual ordered to cease and desist under subsection (2) is entitled to a hearing before a hearings examiner if the individual files a written request for a hearing within 30 days after the effective date of the cease and desist order. The department shall subsequently present the notice, if any, of the individual's failure to respond to a complaint, or attend or be represented at a hearing as described in sections 16231 and 16231a, or the recommended findings of fact and conclusions of law to the appropriate disciplinary subcommittee to determine whether the order is to remain in effect or be dissolved.

(4) Upon a violation of a cease and desist order issued under subsection (2), the department of attorney general may apply in the circuit court to restrain and enjoin, temporarily or permanently, an individual from further violating the cease and desist order.

(5) After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare requires emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292. If a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum term of 2 years; or a misdemeanor involving the illegal delivery, possession, or use of a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, shall summarily suspend the licensee's license or the registrant's registration. If a licensee or registrant is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol that adversely affects the licensee's ability to practice in a safe and competent manner, the department may find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, may summarily suspend the licensee's license or the registrant's registration.

(6) The department may summarily suspend a pharmacy license if the department has received a notice from the United States food and drug administration or the centers for disease control and prevention that there is an imminent risk to the public health, safety, or welfare and emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, is appropriate. A suspension under this subsection remains in effect for the duration of the emergency situation that poses a risk to the public health, safety, or welfare. Notwithstanding any provision of this act to the contrary, the department is not required to conduct an investigation or consult with the board of pharmacy to take emergency action under this subsection.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Rendered Friday, February 3, 2017

Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995;—Am. 2010, Act 382, Imd. Eff. Dec. 22, 2010;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 280, Eff. Sept. 30, 2014.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16234 Conduct of hearings; authority of department.**

Sec. 16234. The department may hold hearings and administer oaths and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16235 Subpoena; prima facie evidence of matters recorded; admissible evidence.**

Sec. 16235. (1) Upon application by the attorney general or a party to a contested case, the circuit court may issue a subpoena requiring a person to appear before a hearings examiner in a contested case or before the department in an investigation and be examined with reference to a matter within the scope of that contested case or investigation and to produce books, papers, or documents pertaining to that contested case or investigation. A subpoena issued under this subsection may require a person to produce all books, papers, and documents pertaining to all of a licensee's or registrant's patients in a health facility on a particular day if the allegation that gave rise to the disciplinary proceeding was made by or pertains to 1 or more of those patients.

(2) A copy of a record of a board or a task force or a disciplinary subcommittee or a hearings examiner certified by a person designated by the director is prima facie evidence of the matters recorded and is admissible as evidence in a proceeding in this state with the same force and effect as if the original were produced.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16236 Mental or physical examination; expense; consent; waiver.**

Sec. 16236. (1) In a hearing or an investigation where mental or physical inability or substance abuse under section 16221 or impairment is alleged, a disciplinary subcommittee or a hearings examiner or the department with the approval of a disciplinary subcommittee may require the applicant, licensee, or registrant to submit to a mental or physical examination conducted by physicians or other appropriate health professionals designated by the disciplinary subcommittee or the department. An examination conducted under this subsection shall be at the expense of the department.

(2) For purposes of this section, an individual licensed or registered under this part who accepts the privilege of practicing in this state, by so practicing or by receiving a license or renewal to practice or by receiving registration, and an individual who applies for licensure or registration, consents to submit to a mental or physical examination under subsection (1) when directed to do so in writing by a disciplinary subcommittee, a hearings examiner, or the department. The individual waives all objections to the admissibility of the testimony or examination reports of the examining health professional on the ground that the testimony or reports constitute privileged communications.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16237 Imposition of penalty by disciplinary subcommittee; review of recommended findings of fact and conclusions of law; assignment of independent special assistant attorney general; additional testimony or evidence; sanction; completion of action; appeal.**

Sec. 16237. (1) In imposing a penalty under section 16232(3), a disciplinary subcommittee shall review the recommended findings of fact and conclusions of law of the hearings examiner.

(2) The department of attorney general may assign an independent special assistant attorney general who is under contract to the department of attorney general and is not a member of the state classified civil service to advise the disciplinary subcommittees on matters of law and provide other legal assistance as necessary. A special assistant attorney general assigned to the disciplinary subcommittees under this subsection shall not be the same individual who represented the department before a hearings examiner under section 16231a(4).

(3) In reviewing the recommended findings of fact and conclusions of law of the hearings examiner and the record of the hearing, a disciplinary subcommittee may request the hearings examiner to take additional testimony or evidence on a specific issue or may revise the recommended findings of fact and conclusions of

law as determined necessary by the disciplinary subcommittee, or both. A disciplinary subcommittee shall not conduct its own investigation or take its own additional testimony or evidence under this subsection.

(4) If a disciplinary subcommittee finds that a preponderance of the evidence supports the recommended findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall impose an appropriate sanction under any combination of this article, article 7, or article 8. If the disciplinary subcommittee finds that a preponderance of the evidence does not support the findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall dismiss the complaint. A disciplinary subcommittee shall report final action taken by it in writing to the appropriate board or task force.

(5) The compliance conference, the hearing before the hearings examiner, and final disciplinary subcommittee action shall be completed within 1 year after the department initiates an investigation under section 16231(2) or (3). The department shall note in its annual report any exceptions to the 1-year requirement.

(6) A final decision of a disciplinary subcommittee rendered after the effective date of the amendatory act that added this section but before January 1, 1995 may be appealed only in the manner provided in sections 103 to 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306. A final decision of a disciplinary subcommittee rendered on or after January 1, 1995 may be appealed only to the court of appeals. An appeal filed under this subsection is by right.

**History:** Add. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

**Compiler's note:** Former MCL 333.16237, which pertained to imposition of penalty, review, and appeal, was repealed by Act 87 of 1993, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16238 Confidentiality of information; compliance conference closed to public.**

Sec. 16238. (1) Except as otherwise provided in section 13(1)(u) (i) and (ii) of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws, the information including, but not limited to, patient names, obtained in an investigation or a compliance conference before a complaint is issued, is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a hearings examiner, a disciplinary subcommittee, or the department.

(2) A compliance conference conducted under this part before a complaint is issued shall be closed to the public.

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16239 Pamphlet.**

Sec. 16239. Each licensee or registrant who is in private practice shall make available upon request of a patient a pamphlet provided by the department outlining the procedure for filing an allegation with the department under section 16231. The department shall prepare the pamphlet in consultation with appropriate professional associations and the boards and task forces. The department shall prepare and print the pamphlet in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be available.

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16241 Publishing list of names and addresses of disciplined individuals; distribution of compilation; report of disciplinary actions; report upon summary suspension of license; notice of revocation or suspension to patient or client; notice to employer or hospital; report.**

Sec. 16241. (1) After administrative disciplinary action is final, the department shall publish a list of the names and addresses of disciplined individuals. The department shall indicate on the list that a final administrative disciplinary action is subject to judicial review. The department shall report disciplinary action to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(2) Once each calendar year, the department shall transmit to the library of Michigan sufficient copies of a compilation of the lists required under subsection (1) for the immediately preceding 3 calendar years. The library of Michigan shall distribute the compilation to each depository library in this state. The department shall also transmit the compilation to each county clerk in this state once each calendar year.

(3) The department of community health shall report the disciplinary actions to appropriate licensed health facilities and agencies. The department of insurance and financial services shall report the disciplinary actions received from the department to insurance carriers providing professional liability insurance.

(4) In case of a summary suspension of a license under section 16233(5), the department shall report the name and address of the individual whose license has been suspended to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association. In case of a summary suspension of a license under section 16233(6), the department shall report the name and address of the pharmacy license that has been suspended to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(5) A licensee or registrant whose license or registration is revoked or suspended under this article shall give notice of the revocation or suspension to each patient who contacts the licensee or registrant for professional services during the term of the revocation or suspension. The licensee or registrant may give the notice required under this subsection orally and shall give the notice required under this subsection at the time of contact.

(6) A licensee or registrant whose license or registration is revoked or is suspended for more than 60 days under this article shall notify in writing each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension and to each individual who is already scheduled for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The notice must be on a form provided by the licensee's or registrant's board or task force and state, at a minimum, the name, address, and license or registration number of the licensee or registrant, the fact that his or her license or registration has been revoked or suspended, the effective date of the revocation or suspension, and the term of the revocation or suspension. Each board or task force shall develop a notice form that meets at least the minimum requirements of this subsection. The licensee or registrant shall send the notice to each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension within 30 days after the date of the final order imposing the revocation or suspension and shall simultaneously transmit a copy of the notice to the department. The licensee or registrant orally shall notify each individual who contacts the licensee or registrant for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The licensee or registrant shall also provide a copy of the notice within 10 days after the date of the final order imposing the revocation or suspension to his or her employer, if any, and to each hospital, if any, in which the licensee or registrant is admitted to practice.

(7) A licensee or registrant who is reprimanded, fined, placed on probation, or ordered to pay restitution under this article or an applicant whose application for licensure or registration is denied under this article shall notify his or her employer, if any, and each hospital, if any, in which he or she is admitted to practice, in the same manner as provided for notice of revocation or suspension to an employer or hospital under subsection (6), within 10 days after the date of the final order imposing the sanction.

(8) The department shall annually report to the legislature and to each board and task force on disciplinary actions taken under this article, article 7, and article 8. The department shall include, at a minimum, all of the following information in the report required under this subsection:

(a) Investigations conducted, complaints issued, and settlements reached by the department, separated out by type of complaint and health profession.

(b) Investigations and complaints closed or dismissed.

(c) Actions taken by each disciplinary subcommittee, separated out by type of complaint, health profession, and final order issued.

(d) Recommendations by boards and task forces.

(e) The number of extensions and delays granted by the department that were in excess of the time limits required under this article for each phase of the disciplinary process, and the types of cases for which the extensions and delays were granted.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 280, Eff. Sept. 30, 2014.

**Popular name:** Act 368

### **333.16243 Reports; reporting name of licensee, amount of damages awarded, or amount of approved settlement.**



Sec. 16243. (1) The department or a disciplinary subcommittee appointed under section 16216 may request and shall receive the following reports:

(a) Information from a licensed health care facility as to disciplinary action taken by it under section 20175.

(b) Information from an insurer providing professional liability insurance as to claims or actions for damages against a licensee; settlements in any amount; a final disposition not resulting in payment on behalf of the insured; or a personal injury claimed to have been caused by an error, omission, or negligence in the performance of the insured professional services. An insurer that receives a request under this subdivision shall submit the information requested directly to the department.

(c) Information from a court in this state as to a felony or misdemeanor conviction of a licensee or registrant or a judgment against a licensee or registrant finding the licensee or registrant negligent in an action for malpractice, whether or not the judgment is appealed.

(d) A report by a licensee or registrant under section 16222.

(e) Information provided by the National Practitioner Data Bank, and reports from the Michigan health care arbitration program.

(f) Reports from any other appropriate source necessary for determination of the competency and safety of the practice of a licensee. Appropriate sources include, but are not limited to, appointed public and private professional review entities and public and private health insurance programs.

(2) Within 10 days after the entry of a judgment against a licensee finding the licensee negligent in an action for malpractice or the approval by a court of a settlement in an action for malpractice, the clerk of the court in which the judgment was entered or the settlement approved shall prepare and immediately forward to the department on a form prescribed by the department a report setting forth the name of the licensee and the amount of damages awarded or the amount of the approved settlement.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2016, Act 103, Eff. Aug. 1, 2016.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

### **333.16244 Immunity from civil or criminal liability; physician-patient privilege inapplicable; confidentiality of information; disclosure; prohibition.**

Sec. 16244. (1) A person, including a state or county health professional organization, a committee of the organization, or an employee or officer of the organization furnishing information to, or on behalf of, the organization, acting in good faith who makes a report; assists in originating, investigating, or preparing a report; or assists a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department in carrying out its duties under this article is immune from civil or criminal liability including, but not limited to, liability in a civil action for damages that might otherwise be incurred thereby and is protected under the whistleblowers' protection act, Act No. 469 of the Public Acts of 1980, being sections 15.361 to 15.369 of the Michigan Compiled Laws. A person making or assisting in making a report, or assisting a board or task force, a hearings examiner, the committee, or the department, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article or section 21513(e).

(2) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws, does not apply in an investigation or proceeding by a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department acting within the scope of its authorization. Unless expressly waived by the individual to whom the information pertains, the information obtained is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a board or task force, a disciplinary subcommittee, the committee, or the department. Except as otherwise provided in this subsection, a person shall not use or disseminate the information except pursuant to a valid court order.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 87, Eff. Apr. 1, 1994.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

In the last sentence of subsection (1), the reference to "section 21513(e)" evidently should be to "section 20175 (5) to (7)."

**Popular name:** Act 368

### **333.16245 Reinstatement of limited, suspended, or revoked license or registration;**

**application; payment; time; hearing; guidelines; fee; criminal history check; permanent revocation.**

Sec. 16245. (1) Except as otherwise provided in this section or section 16245a, an individual whose license is limited, suspended, or revoked under this part may apply to his or her board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

(2) Except as otherwise provided in this section or section 16245a, an individual whose registration is suspended or revoked under this part may apply to his or her board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

(3) A board or task force shall reinstate a license or registration suspended for grounds stated in section 16221(j) upon payment of the installment.

(4) Except as otherwise provided in this section or section 16245a, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. Except as otherwise provided in this section or section 16245a, in the case of a license or registration that was revoked for a violation of section 16221(b)(vii) or (xiii), a violation of section 16221(c)(iv) consisting of a felony conviction, any other felony conviction involving a controlled substance, or a violation of section 16221(q), an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the applicable time period under this subsection.

(5) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement unless the application is returned because the applicant is ineligible for reinstatement under subsection (4) or (9).

(6) Based upon the recommendation of the disciplinary subcommittee for each health profession, the department shall adopt guidelines to establish specific criteria to be met by an applicant for reinstatement under this article, article 7, or article 8. The criteria may include corrective measures or remedial education as a condition of reinstatement. If a board or task force, in reinstating a license or registration, deviates from the guidelines adopted under this subsection, the board or task force shall state the reason for the deviation on the record.

(7) An individual who seeks reinstatement or reclassification of a license or registration under this section shall pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or registration fee for the applicable license or registration period.

(8) An individual who seeks reinstatement of a revoked or suspended license or reclassification of a limited license under this section shall have a criminal history check conducted in accordance with section 16174 and submit a copy of the results of the criminal history check to the board with his or her application for reinstatement or reclassification.

(9) An individual whose license is permanently revoked under section 16221 is ineligible for reinstatement. The department shall return an application for reinstatement received if the applicant is ineligible for reinstatement under this subsection.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 174, Imd. Eff. July 7, 1986;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 1993, Act 87, Eff. Apr. 1, 1994;—Am. 1998, Act 109, Eff. Mar. 23, 1999;—Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006;—Am. 2011, Act 223, Imd. Eff. Nov. 15, 2011;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

**Compiler's note:** Section 3 of Act 174 of 1986 provides: "This amendatory act shall only apply to contested cases filed on or after July 1, 1986."

**Popular name:** Act 368

**333.16245a Permanent revocation.**

Sec. 16245a. (1) In addition to any other penalty, remedy, or sanction under this act, an individual whose license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article is permanently ineligible for a license, registration, or authorization to engage in the practice of a health profession under this article by the department or a board or task force.

(2) The department or a board or task force shall not issue a license or registration to an individual whose license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article. The department or a board or task force shall not otherwise authorize an individual to engage in the practice of a health profession under this article if that individual's license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article.

**History:** Add. 2014, Act 413, Eff. Mar. 30, 2015.

### **333.16247 Reinstatement of license or issuance of limited license; requirements.**

Sec. 16247. (1) Except as otherwise provided in this section, a board or task force may reinstate a license or issue a limited license to an individual whose license has been suspended or revoked under this part if after a hearing the board or task force is satisfied by clear and convincing evidence that the applicant is of good moral character, is able to practice the profession with reasonable skill and safety to patients, has met the criteria in the guidelines adopted under section 16245(6), and should be permitted in the public interest to practice. Pursuant to the guidelines adopted under section 16245(6), as a condition of reinstatement, a disciplinary subcommittee, upon the recommendation of a board or task force, may impose a disciplinary or corrective measure authorized under this part and require that the licensee attend a school or program selected by the board or task force to take designated courses or training to become competent or proficient in those areas of practice in which the board or task force finds the licensee to be deficient. The board or task force may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency or proficiency.

(2) As a condition of reinstatement, a board or task force shall place the licensee on probation for 1 year under conditions set by the board or task force. If a licensee whose license has been revoked cannot apply for reinstatement for 5 years after the date of revocation, then, as a condition of reinstatement, the board or task force shall require the licensee to take and pass the current licensure examination.

(3) A board or task force shall not reinstate a license suspended or revoked for grounds stated in section 16221(b)(i), (iii), or (iv) until it finds that the licensee is mentally or physically able to practice with reasonable skill and safety to patients. The board or task force may require further examination of the licensee, at the licensee's expense, necessary to verify that the licensee is mentally or physically able. The board or task force shall give a licensee described in this section the opportunity at reasonable intervals to demonstrate that he or she can resume competent practice in accordance with standards of acceptable and prevailing practice.

(4) A board or task force shall not reinstate a license or issue a limited license to an individual whose license has been permanently revoked under section 16221.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

**Popular name:** Act 368

### **333.16248 Reinstatement of registration; requirements.**

Sec. 16248. (1) Except as otherwise provided in this section, a registration board may reinstate a registration revoked or suspended under this part if, after a hearing, the board is satisfied by clear and convincing evidence that the individual is of good moral character, has the education and experience as required in this article, has met the criteria in the guidelines adopted under section 16245(6), and will use the title lawfully and act in accordance with this article.

(2) A board or task force shall not reinstate a registration or issue a limited registration to an individual whose license has been permanently revoked under section 16221.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

**Popular name:** Act 368

### **333.16249 Reclassification of limited license; requirements.**

Sec. 16249. Except as otherwise provided in section 16245a, a disciplinary subcommittee may reclassify a license limited under this part to alter or remove the limitations if, after a hearing, it is satisfied that the applicant will practice the profession safely and competently within the area of practice and under conditions stipulated by the disciplinary subcommittee, and should be permitted in the public interest to so practice. The disciplinary subcommittee may require the submission of information necessary to make the determination required for reclassification. As a condition of reclassification, the disciplinary subcommittee may require that the licensee take an examination or attend a school or program selected by the disciplinary subcommittee to take designated courses or training to become competent in those areas of practice the disciplinary subcommittee determines necessary for reclassification. The disciplinary subcommittee may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2014, Act 413, Eff. Mar. 30, 2015.

**Popular name:** Act 368

### **333.16261 Health profession; prohibited use of insignia, title, letter, word, or phrase.**

Sec. 16261. (1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the person is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a health profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained a specialty certification or a health profession specialty field license.

(3) An individual shall not announce or hold himself or herself out to the public as being able to perform a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless the individual is a chiropractor licensed under this article.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002.

**Popular name:** Act 368

### **333.16263 Repealed. 2006, Act 392, Imd. Eff. Sept. 27, 2006.**

**Compiler's note:** The repealed section pertained to restricted use of words, titles, or letters.

**Popular name:** Act 368

### **333.16264 Use of insignia, titles, letters, or phrases granted by authorized educational program or institution or professional organization or association.**

Sec. 16264. Section 16261 shall not limit the right of an individual to use the insignia, titles, letters, or phrases as granted to the individual by an authorized educational program or institution or professional organization or professional association for the purpose of identifying the individual as having completed or attained specific training or as having established a recognized relationship with a health profession regulated by this article, if the individual does not violate the conditions of those sections or of a specific part in this article.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

**Popular name:** Act 368

### **333.16265 Use of terms “doctor” or “dr.”.**

Sec. 16265. (1) An individual licensed under this article to engage in the practice of chiropractic, dentistry, medicine, optometry, osteopathic medicine and surgery, podiatric medicine and surgery, psychology, or veterinary medicine shall not use the terms “doctor” or “dr.” in any written or printed matter or display without adding thereto “of chiropractic”, “of dentistry”, “of medicine”, “of optometry”, “of osteopathic medicine and surgery”, “of podiatric medicine and surgery”, “of psychology”, “of veterinary medicine” or a similar term, respectively.

(2) An individual licensed under part 182 shall not use the terms “doctor” or “dr.” without having been granted a doctoral degree in psychology from a regionally or nationally accredited college or university.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.16266 Compliance.**

Sec. 16266. Each licensee who owns or operates, or who owns and operates, a private practice office shall comply with part 138.

**History:** Add. 1990, Act 21, Eff. June 4, 1990.

**Popular name:** Act 368

### **333.16267 HIV infected test subject; compliance reporting requirements; definitions.**

Sec. 16267. (1) A licensee who obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.

(2) As used in this section:

(a) “HIV” means human immunodeficiency virus.

(b) “HIV infected” means that term as defined in section 5101.

**History:** Add. 1988, Act 489, Eff. Mar. 30, 1989.

**Popular name:** Act 368

**333.16273 Artificial insemination services on anonymous basis; use of frozen sperm; testing sperm donor for presence of HIV or antibody to HIV; violation; liability; definitions.**

Sec. 16273. (1) A licensee, except a veterinarian licensed under this article, who provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the licensee shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the licensee shall not use the sperm of the donor for artificial insemination purposes.

(2) A licensee who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.

(3) As used in this section:

(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the licensee who provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.

(b) "HIV" means human immunodeficiency virus.

**History:** Add. 1988, Act 487, Eff. July 1, 1989.

**Popular name:** Act 368

**333.16274 Human cloning; prohibited acts; exception; violation of subsection (1); private right of action; definitions.**

Sec. 16274. (1) A licensee or registrant shall not engage in or attempt to engage in human cloning.

(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.

(3) A licensee or registrant who violates subsection (1) is subject to the administrative penalties prescribed in sections 16221 and 16226 and to the civil penalty prescribed in section 16275.

(4) This section does not give a person a private right of action.

(5) As used in this section:

(a) "Human cloning" means the use of human somatic cell nuclear transfer technology to produce a human embryo.

(b) "Human embryo" means a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.

(c) "Human somatic cell" means a cell of a developing or fully developed human being that is not and will not become a sperm or egg cell.

(d) "Human somatic cell nuclear transfer" means transferring the nucleus of a human somatic cell into an egg cell from which the nucleus has been removed or rendered inert.

**History:** Add. 1998, Act 108, Eff. Mar. 23, 1999.

**Popular name:** Act 368

**333.16275 Human cloning; prohibition; exception; violation; penalty; private right of action; "human cloning" defined.**

Sec. 16275. (1) A licensee or registrant or other individual shall not engage in or attempt to engage in human cloning.

(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.

(3) A licensee or registrant or other individual who violates subsection (1) is subject to a civil penalty of \$10,000,000.00. A fine collected under this subsection shall be distributed in the same manner as penal fines are distributed in this state.

(4) This section does not give a person a private right of action.

(5) As used in this section, "human cloning" means that term as defined in section 16274.

**History:** Add. 1998, Act 109, Eff. Mar. 23, 1999.

**Popular name:** Act 368

**333.16276 Use of laser for dermatological purposes; supervision of licensed physician required; exceptions; rules; definitions.**

Sec. 16276. (1) A licensee, registrant, or other individual shall not perform any procedure using a laser for dermatological purposes unless the procedure is performed under the supervision of a licensed physician.



(2) A licensee, registrant, or other individual shall not perform any procedure using a laser for dermatological purposes unless the patient has knowledge and consents to the procedure being performed by that licensee, registrant, or individual.

(3) Subsection (1) does not apply to any of the following:

(a) A licensed physician.

(b) A licensed physician's assistant who performs such a procedure in a health care facility.

(c) A certified nurse practitioner who performs such a procedure in a health care facility.

(4) The department may promulgate rules to further prohibit or otherwise restrict the use of lasers for dermatological purposes.

(5) As used in this section:

(a) "Dermatological" means of or relating to the practice of dermatology.

(b) "Practice of dermatology" means the diagnosis and treatment of medically necessary and cosmetic conditions of the skin, hair, and nails by various surgical, reconstructive, cosmetic, and nonsurgical methods.

(c) "Supervision" means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(i) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(ii) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(iii) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

**History:** Add. 2004, Act 144, Imd. Eff. June 15, 2004.

**Popular name:** Act 368

### **333.16277 Nonemergency health care; limitation on liability; additional restrictions; exceptions; definitions.**

Sec. 16277. (1) Subject to this section, a licensee or registrant who provides to a patient nonemergency health care that the licensee or registrant is licensed or registered under this article to provide, and who receives no compensation for providing the nonemergency health care, is not liable in a civil action for damages for acts or omissions in providing the nonemergency health care, unless the acts or omissions were the result of gross negligence or willful and wanton misconduct or were intended to injure the patient.

(2) The limitation on liability provided under subsection (1) applies only if the nonemergency health care is provided inside the premises of or as a result of a referral from either of the following:

(a) A health facility organized and operated for the sole purpose of delivering nonemergency health care without receiving compensation.

(b) An entity that is not a health facility and that provides or that coordinates or otherwise arranges for the provision of nonemergency health care to uninsured or underinsured individuals through the voluntary services of or through referrals for the voluntary services of licensees or registrants who receive no compensation for providing the nonemergency health care.

(3) In addition to the restrictions under subsection (2), the limitation on liability provided in subsection (1) does not apply in regard to the nonemergency health care of a patient unless, before the licensee or registrant provides that health care, both of the following occur:

(a) The licensee, registrant, or health facility or entity described in subsection (2) provides the patient with a written disclosure describing the limitation on liability and stating that the health care is free and compensation for the health care will not be requested from any source.

(b) The patient signs an acknowledgment of receipt of the written disclosure.

(4) A health facility, other than a health facility described in subsection (2), that provides financial, in-kind, or other support, not including health care services, to a health facility or entity described in subsection (2) is not liable in a civil action for damages based on nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(5) An entity that is not a health facility, is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, and is organized and operated for the sole purpose of coordinating and providing referrals for nonemergency health care to uninsured or underinsured individuals through licensees or registrants who do not receive compensation for providing the nonemergency health care is not liable in a civil action for damages that arise from the nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(6) This section does not affect the liability of a health facility or entity described in subsection (2) as that

liability existed before January 1, 2002.

(7) This section does not apply to a civil action for damages for acts or omissions if the nonemergency health care is surgery that customarily requires more than a local anesthetic.

(8) As used in this section:

(a) "Compensation" means, subject to subdivision (b), receipt of payment or expected receipt of payment from any source, including, but not limited to, receipt of payment or expected receipt of payment directly from a patient, from a patient's parent, guardian, or spouse, or from a public or private health care payment or benefits plan on behalf of the patient, or indirectly in the form of wages, salary, or other valuable consideration under an employment or service agreement.

(b) "Compensation" does not include the receipt by a licensee or registrant who is employed by a health facility other than a health facility described in subsection (2) of wages, salary, or other valuable consideration from the employing health facility, if all of the following apply:

(i) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section as a condition of employment.

(ii) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section at a specific health facility described in subsection (2) as a condition of employment.

(iii) The employing health facility does not receive compensation for the licensee's or registrant's provision of health care as described in this section.

(c) "Health facility" means a health facility or agency licensed under article 17.

**History:** Add. 2001, Act 172, Eff. Jan. 1, 2002;—Am. 2011, Act 94, Imd. Eff. July 15, 2011.

**Compiler's note:** Enacting section 1 of Act 172 of 2001 provides:

"Enacting section 1. Section 16277 of the public health code, 1978 PA 368, MCL 333.16277, as added by this amendatory act, takes effect January 1, 2002 and applies to a cause of action arising on or after that effective date."

**Popular name:** Act 368

### **333.16281 Initiation of child abuse or neglect investigations; notice to licensee or registrant; request for child's medical records and information; release of medical records and information; inapplicable privileges; immunity from liability; exception; duties imposed by other statutes.**

Sec. 16281. (1) If there is a compelling need for records or information to determine whether child abuse or child neglect has occurred or to take action to protect a child where there may be a substantial risk of harm, a family independence agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a licensee or registrant that a child abuse or neglect investigation has been initiated regarding a child who has received services from the licensee or registrant and shall request in writing the child's medical records and information that are pertinent to that investigation. Upon receipt of this notification and request, the licensee or registrant shall review all of the child's medical records and information in the licensee's or registrant's possession to determine if there are medical records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subsection, the licensee or registrant shall release those pertinent medical records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation.

(2) The following privileges do not apply to medical records or information released or made available under subsection (1):

(a) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

(b) The dentist-patient privilege created in section 16648.

(c) The licensed professional counselor-client and limited licensed counselor-client privilege created in section 18117.

(d) The psychologist-patient privilege created in section 18237.

(e) Any other health professional-patient privilege created or recognized by law.

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith provides access to medical records or information under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

(4) This section does not apply to a report, record, datum, or information whose confidentiality and disclosure are governed by section 5131.

(5) A duty under this act relating to child abuse and neglect does not alter a duty imposed under another statute, including the child protection law, 1975 PA 238, MCL 722.621 to 722.638, regarding the reporting or

investigation of child abuse or neglect.

**History:** Add. 1998, Act 496, Eff. Mar. 1, 1999.

**Popular name:** Act 368

\*\*\*\*\* 333.16283.added THIS ADDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

### **333.16283.added Definitions.**

Sec. 16283. As used in this section and sections 16284 to 16288:

(a) "Health professional" means an individual who is engaging in the practice of a health profession.

(b) "Prescriber" means that term as defined in section 17708.

(c) "Telehealth" means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine. As used in this subdivision, "telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.

(d) "Telehealth service" means a health care service that is provided through telehealth.

**History:** Add. 2016, Act 359, Eff. Mar. 29, 2017.

**Popular name:** Act 368

\*\*\*\*\* 333.16284.added THIS ADDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

### **333.16284.added Telehealth service; consent required; exception.**

Sec. 16284. Except as otherwise provided in this section, a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment. This section does not apply to a health professional who is providing a telehealth service to an inmate who is under the jurisdiction of the department of corrections and is housed in a correctional facility.

**History:** Add. 2016, Act 359, Eff. Mar. 29, 2017.

**Popular name:** Act 368

\*\*\*\*\* 333.16285.added THIS ADDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

### **333.16285.added Telehealth service; prescribing patient with drug; conditions.**

Sec. 16285. A health professional who is providing a telehealth service may prescribe the patient a drug if both of the following are met:

(a) The health professional is a prescriber.

(b) The drug is not a controlled substance.

**History:** Add. 2016, Act 359, Eff. Mar. 29, 2017.

**Popular name:** Act 368

\*\*\*\*\* 333.16286.added THIS ADDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

### **333.16286.added Telehealth service; restrictions or conditions; findings by disciplinary subcommittee.**

Sec. 16286. In a manner consistent with this part and in addition to the provisions set forth in this part, a disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.

**History:** Add. 2016, Act 359, Eff. Mar. 29, 2017.

**Popular name:** Act 368

\*\*\*\*\* 333.16287.added THIS ADDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

### **333.16287.added Rules.**

Sec. 16287. The department, in consultation with a board, may promulgate rules to implement sections 16284 and 16285.

**History:** Add. 2016, Act 359, Eff. Mar. 29, 2017.

**Popular name:** Act 368

\*\*\*\*\* 333.16288.added THIS ADDED SECTION IS EFFECTIVE MARCH 29, 2017 \*\*\*\*\*

**333.16288.added MCL 333.16284 to 333.16287; limitations.**

Sec. 16288. Sections 16284 to 16287 do not do any of the following:

- (a) Require new or additional third party reimbursement for health care services rendered by a health professional through telehealth.
- (b) Limit the provision of a health care service otherwise allowed by law.
- (c) Authorize a health care service otherwise prohibited by law.

**History:** Add. 2016, Act 359, Eff. Mar. 29, 2017.

**Popular name:** Act 368

**333.16291 Violation; injunctive relief; criminal proceeding; prosecution.**

Sec. 16291. (1) Upon a violation of this article or of a rule or order of a board or task force, a disciplinary subcommittee, or the department, the circuit court for the county in which the violation occurs may restrain and enjoin a person from the violation. A board or task force, a disciplinary subcommittee, or the department shall seek injunctive relief through the attorney general or the prosecuting attorney of the county in which the violation occurs. This proceeding may be in addition to and is not in lieu of a criminal prosecution or proceeding as to a license or registration.

(2) The department, a board or task force, or a disciplinary subcommittee, may request the attorney general or prosecuting attorney to prosecute a person violating this article. The attorney general or the prosecuting attorney may prosecute a violation of this article.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**333.16294 Unlawful conduct; felony.**

Sec. 16294. Except as provided in section 16215, an individual who practices or holds himself or herself out as practicing a health profession regulated by this article without a license or registration or under a suspended, revoked, lapsed, void, or fraudulently obtained license or registration, or outside the provisions of a limited license or registration, or who uses as his or her own the license or registration of another person, is guilty of a felony.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

**333.16296 Unlawful conduct; misdemeanor; penalties.**

Sec. 16296. A person who uses a title regulated by this article without a registration or under a suspended, revoked, or fraudulently obtained registration, or who uses as his or her own the registration of another person is guilty of a misdemeanor, punishable as follows:

- (a) For the first offense, by imprisonment for not more than 90 days, or a fine of \$100.00, or both.
- (b) For the second or subsequent offense, by imprisonment for not less than 60 days nor more than 1 year, or a fine of not less than \$300.00 nor more than \$1,000.00, or both.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

**333.16299 Violation as misdemeanor; penalties; exception.**

Sec. 16299. (1) Except as otherwise provided in subsection (2), a person who violates or aids or abets another in a violation of this article, other than those matters described in sections 16294 and 16296, is guilty of a misdemeanor punishable as follows:

- (a) For the first offense, by imprisonment for not more than 90 days, or a fine of not more than \$100.00, or both.
- (b) For the second or subsequent offense, by imprisonment for not less than 90 days nor more than 6 months, or a fine of not less than \$200.00 nor more than \$500.00, or both.

(2) Subsection (1) does not apply to a violation of section 17015, 17015a, 17017, 17515, or 17517.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2002, Act 685, Eff. Mar. 31, 2003;—Am. 2012, Act 499, Eff. Mar. 31, 2013.

**Popular name:** Act 368

**333.16301 Fees generally.**

Sec. 16301. (1) Fees for licenses and registrations issued and other services performed by the department shall be as prescribed in this article.

(2) This article does not prohibit a person who has a contract with the department or any other person

providing direct services from collecting fees directly from an applicant, registrant, or licensee.

(3) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is increased under this article.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979;—Am. 1979, Act 161, Imd. Eff. Dec. 10, 1979;—Am. 1988, Act 462, Eff. Sept. 1, 1989;—Am. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16303 Nonrefundable application processing fee; examination or inspection fee; fee for initial license or registration period.**

Sec. 16303. Each application for a license or registration shall be accompanied by a nonrefundable application processing fee. The department may also require that the application be accompanied by a fee for a required examination or inspection or the fee for the initial license or registration period.

**History:** Add. 1988, Act 462, Eff. Sept. 1, 1989.

**Popular name:** Act 368

### **333.16305 Examination fee; forfeiture; reexamination fee.**

Sec. 16305. (1) An individual who is required to take an examination shall pay an examination fee.

(2) An individual who is scheduled for examination or reexamination and who fails to appear at the examination shall forfeit the examination fee.

(3) An individual who fails all or part of an examination may be reexamined, if eligible, after paying for the complete examination or such parts of the examination as must be repeated.

**History:** Add. 1988, Act 462, Eff. Sept. 1, 1989.

**Popular name:** Act 368

### **333.16307 License and registration fees; completion of requirements for licensure or registration; forfeiture of fees; effect of void application.**

Sec. 16307. (1) A person who has completed the requirements for a license or registration or who seeks to renew a license or registration shall not be issued a license or registration until the person has paid the license or registration fee.

(2) License and registration fees shall be prescribed on a per-year basis. If licenses and registrations are established on a biennial basis, the fee required shall be twice the per-year amount prescribed. If licenses or registrations are established on a triennial basis, the fee required shall be 3 times the per-year amount prescribed.

(3) Except as otherwise provided in this act or rules promulgated under this act, all requirements for licensure or registration shall be completed within 2 years after receipt of the application by the department. If the requirements are not completed within the 2-year period, the fees paid shall be forfeited to the department and the application shall be void. An individual whose application has been determined void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt of the new application.

**History:** Add. 1988, Act 462, Eff. Sept. 1, 1989.

**Popular name:** Act 368

### **333.16311 Repealed. 1988, Act 462, Eff. Sept. 1, 1989.**

**Compiler's note:** The repealed section pertained to delinquent charges.

**Popular name:** Act 368

### **333.16315 Health professions regulatory fund; nurse professional fund; pain management education and controlled substances electronic monitoring and antidiversion fund.**

Sec. 16315. (1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in this section, the state treasurer shall credit the fees collected under sections 16319 to 16349 to the health professions regulatory fund. The money in the health professions regulatory fund shall be expended only as provided in subsection (5).

(2) The state treasurer shall direct the investment of the health professions regulatory fund. Interest and earnings from health professions regulatory fund investment shall be credited to the health professions regulatory fund.



(3) The unencumbered balance in the health professions regulatory fund at the close of the fiscal year shall remain in the health professions regulatory fund and shall not revert to the general fund.

(4) The health professions regulatory fund may receive gifts and devises and other money as provided by law.

(5) The department shall use the health professions regulatory fund to carry out its powers and duties under this article, article 7, and article 8, including, but not limited to, reimbursing the department of attorney general for the reasonable cost of services provided to the department under this article, article 7, and article 8.

(6) The nurse professional fund is established in the state treasury. Of the money that is attributable to per-year license fees collected under section 16327, the state treasurer shall credit \$8.00 of each individual annual license fee collected to the nurse professional fund. The money in the nurse professional fund shall be expended only as provided in subsection (9).

(7) The state treasurer shall direct the investment of the nurse professional fund, and shall credit interest and earnings from the investment to the nurse professional fund. The nurse professional fund may receive gifts and devises and other money as provided by law.

(8) The unencumbered balance in the nurse professional fund at the close of the fiscal year shall remain in the nurse professional fund and shall not revert to the general fund.

(9) The department of community health shall use the nurse professional fund each fiscal year only as follows:

(a) To promote safe patient care in all nursing practice environments.

(b) To advance the safe practice of the nursing profession.

(c) To assure a continuous supply of high-quality direct care nurses, nursing faculty, and nursing education programs.

(d) To operate a nursing scholarship program.

(10) The pain management education and controlled substances electronic monitoring and antidiversion fund is established in the state treasury.

(11) The state treasurer shall direct the investment of the pain management education and controlled substances electronic monitoring and antidiversion fund. Interest and earnings from investment of the pain management education and controlled substances electronic monitoring and antidiversion fund shall be credited to the pain management education and controlled substances electronic monitoring and antidiversion fund.

(12) The unencumbered balance in the pain management education and controlled substances electronic monitoring and antidiversion fund at the close of the fiscal year shall remain in the pain management education and controlled substances electronic monitoring and antidiversion fund and shall not revert to the general fund. The pain management education and controlled substances electronic monitoring and antidiversion fund may receive gifts and devises and other money as provided by law. Twenty dollars of the license fee received by the department under section 16319 shall be deposited with the state treasurer to the credit of the pain management education and controlled substances electronic monitoring and antidiversion fund. The department shall use the pain management education and controlled substances electronic monitoring and antidiversion fund only in connection with programs relating to pain management education for health professionals, preventing the diversion of controlled substances, and development and maintenance of the electronic monitoring system for controlled substances data required by section 7333a.

**History:** Add. 1993, Act 138, Eff. Apr. 1, 1994;—Am. 2001, Act 232, Imd. Eff. Jan. 3, 2002;—Am. 2007, Act 166, Imd. Eff. Dec. 21, 2007;—Am. 2009, Act 216, Imd. Eff. Jan. 4, 2010;—Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013.

**Compiler's note:** Former MCL 333.16315, which pertained to health professions regulatory fund and nurse professional fund, was repealed by Acts 87 and 138 of 1993, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16317 Fees; limitation on increase; schedule.**

Sec. 16317. (1) At the beginning of each state fiscal year, the department may increase the fees collected under sections 16319 to 16349 by a percentage amount equal to not more than the average percentage wage and salary increase granted for that fiscal year to classified civil service employees employed by the department.

(2) If the department increases fees under subsection (1), the increase shall be effective for that fiscal year. The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(3) By August 1 of each year the department shall provide to the director of the department of management and budget and the chairpersons of the appropriations committees of the senate and house of representatives a

complete schedule of fees to be collected under sections 16319 to 16349 for the following fiscal year.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16319 Fees.**

Sec. 16319. Fees for a person licensed or seeking licensure to engage in manufacturing, distributing, prescribing, dispensing, or conducting research with controlled substances under part 73 are as follows:

- |                                     |          |
|-------------------------------------|----------|
| (a) Application processing fee..... | \$ 10.00 |
| (b) License fee, per year.....      | 75.00.   |

**History:** Add. 1993, Act 138, Eff. Apr. 1, 1994.

**Compiler's note:** Former MCL 333.16319, which pertained to licensure and fees for manufacturing, distributing, prescribing, or dispensing controlled substances or conducting research, was repealed by Act 138 of 1993, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16321 Chiropractor; fees.**

Sec. 16321. Fees for a person licensed or seeking licensure to engage in the practice of chiropractic under part 164 are as follows:

- |                                     |          |
|-------------------------------------|----------|
| (a) Application processing fee..... | \$ 20.00 |
| (b) Examination fees:               |          |
| (i) Complete examination.....       | 100.00   |
| (ii) Per part.....                  | 15.00    |
| (iii) Examination review.....       | 20.00    |
| (c) License fee, per year.....      | 90.00    |
| (d) Temporary license.....          | 25.00    |
| (e) Limited license, per year.....  | 25.00    |

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16322 Acupuncturist; registration fees.**

Sec. 16322. Fees for a person registered or seeking registration as an acupuncturist under part 165 are as follows:

- |                                     |           |
|-------------------------------------|-----------|
| (a) Application processing fee..... | \$ 75.00  |
| (b) Registration fee, per year..... | \$ 200.00 |

**History:** Add. 2006, Act 30, Imd. Eff. July 1, 2006.

**Popular name:** Act 368

### **333.16323 Dentist, dental assistant, or dental hygienist; fees; waiver; "armed forces" defined.**

Sec. 16323. (1) Except as otherwise provided in subsection (2), fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, or dental hygienist under part 166 are as follows:

- |   |          |
|---|----------|
| (a) Application processing fees:  |          |
| (i) Dentist.....  | \$ 20.00 |
| (ii) Dental assistant.....  | 10.00    |
| (iii) Dental hygienist.....   | 15.00    |
| (iv) Health profession specialty field<br>license for a dentist.....                    | 20.00    |
| (b) Examination fees:   |          |
| (i) Dental assistant's examination,<br>complete.....                                    | 70.00    |
| (ii) Dental assistant's examination,<br>per part.....                                   | 35.00    |
| (iii) Dentist's health profession specialty<br>field license examination, complete..... | 300.00   |
| (iv) Dentist's health profession specialty<br>field license examination, per part.....  | 100.00   |
| (c) License fees, per year:   |          |
| (i) Dentist.....  | 90.00    |
| (ii) Dental assistant.....  | 10.00    |
| (iii) Dental hygienist.....   | 20.00    |
| (iv) Dentist's health profession specialty  |          |

	field license.....	15.00
(d)	Temporary license fees:	
(i)	Dentist.....	20.00
(ii)	Dental assistant.....	5.00
(iii)	Dental hygienist.....	10.00
(e)	Limited license fee, per year:	
(i)	Dentist.....	25.00
(ii)	Dental assistant.....	5.00
(iii)	Dental hygienist.....	10.00
(f)	Examination review fees:	
(i)	Dental preclinical or dentist's health profession specialty field license.....	50.00
(ii)	Dental assistant.....	20.00

(2) The department shall waive the application processing and license fees required under subsection (1) for an initial license to engage in practice as a dental assistant if the applicant for initial licensure, while on active duty as a member of the armed forces, served as a military dental specialist and was separated from service with an honorable character of service or under honorable conditions (general) character of service in the armed forces. The applicant shall provide a form DD214, DD215, or any other form that is satisfactory to the department to be eligible for the waiver of fees under this subsection. As used in this subsection, "armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002;—Am. 2014, Act 305, Eff. Jan. 9, 2015

**Popular name:** Act 368

### **333.16323a Fees.**

Sec. 16323a. Fees for a person licensed or seeking licensure as an audiologist under part 168 are as follows:

(a)	Application processing fee.....	\$ 120.00
(b)	License fee, per year.....	150.00

**History:** Add. 2004, Act 97, Imd. Eff. May 7, 2004.

**Popular name:** Act 368

### **333.16324 Marriage and family therapy; license fees.**

Sec. 16324. Fees for a person licensed or seeking licensure to engage in the practice of marriage and family therapy under part 169 are as follows:

(a)	Application processing fee.....	\$ 25.00
(b)	License fee, per year.....	50.00

**History:** Add. 1995, Act 126, Eff. Jan. 1, 1996.

**Popular name:** Act 368

### **333.16325 Medicine; fees.**

Sec. 16325. Fees for a person licensed or seeking licensure to engage in the practice of medicine under part 170 are as follows:

(a)	Application processing fee.....	\$ 50.00
(b)	License fee, per year.....	90.00
(c)	Temporary license fee.....	25.00
(d)	Limited license fee, per year.....	30.00

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16327 Registered nurse, licensed practical nurse, or trained attendant; fees.**

Sec. 16327. Fees for a person licensed or seeking licensure to practice nursing as a registered nurse, a licensed practical nurse, or a trained attendant under part 172 are as follows:

(a)	Application processing fee.....	\$ 24.00
(b)	License fee, per year.....	30.00
(c)	Temporary license.....	10.00
(d)	Limited license, per year.....	10.00
(e)	Specialty certification for registered nurse:	

- (i) Application processing fee..... 24.00
- (ii) Specialty certification, per year.... 14.00

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2009, Act 216, Imd. Eff. Jan. 4, 2010.

**Popular name:** Act 368

### **333.16328 Nursing home administrator; licensing fees.**

Sec. 16328. Fees for a person licensed or seeking licensure as a nursing home administrator under part 173 are as follows:

- (a) Application processing fee..... \$ 15.00
- (b) Examination fees:
  - (i) Complete examination..... 120.00
  - (ii) National examination..... 95.00
  - (iii) State supplemental examination..... 50.00
- (c) Examination review..... 25.00
- (d) License fee, per year..... 60.00
- (e) Temporary license..... 25.00

**History:** Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001.

**Popular name:** Act 368

### **333.16329 Optometry; fees.**

Sec. 16329. Fees for a person licensed or seeking licensure to engage in the practice of optometry under part 174 are as follows:

- (a) Application processing fee ..... \$ 20.00
- (b) Examination fees:
  - (i) Complete examination ..... 200.00
  - (ii) Examination, per part ..... 50.00
  - (iii) Examination review ..... 20.00
- (c) License fee, per year ..... 90.00
- (d) Limited license, per year ..... 25.00
- (e) Temporary license ..... 25.00
- (f) Certification to administer diagnostic pharmaceutical agents or to administer and prescribe therapeutic pharmaceutical agents:
  - (i) Application processing fee ..... \$ 20.00
  - (ii) Until the expiration of 10 years after the effective date of the amendatory act that added section 17435, certification to administer diagnostic pharmaceutical agents ..... 55.00
  - (iii) Certification to administer diagnostic pharmaceutical agents and to administer and prescribe therapeutic pharmaceutical agents ..... 55.00

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 1994, Act 384, Eff. Mar 30, 1995.

**Popular name:** Act 368

### **333.16331 Osteopathic medicine and surgery; fees.**

Sec. 16331. Fees for a person licensed or seeking licensure to engage in the practice of osteopathic medicine and surgery under part 175 are as follows:

- (a) Application processing fee..... \$ 50.00
- (b) License fee, per year..... 90.00
- (c) Temporary license fee..... 25.00
- (d) Limited license fee, per year..... 30.00

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16333 Pharmacy or other practices regulated under Part 177; fees.**

Sec. 16333. Fees for a person licensed or seeking licensure to engage in the practice of pharmacy or other practices regulated under part 177 are as follows:

- (a) Application processing fees:

(i)	Pharmacist.....	\$ 20.00
(ii)	Pharmacy.....	35.00
(iii)	Drug control.....	20.00
(iv)	Manufacturer or wholesaler.....	50.00
(v)	Pharmacy technician.....	25.00
(b)	Examination fees:	
	Jurisprudence examination.....	30.00
(c)	License fees, per year:	
(i)	Pharmacist.....	30.00
(ii)	Pharmacy.....	50.00
(iii)	Drug control.....	15.00
(iv)	Manufacturer or wholesaler.....	25.00
(v)	Pharmacy technician.....	30.00
(d)	Temporary license for pharmacist.....	25.00
(e)	Limited license for pharmacist, per year...	15.00
(f)	Temporary license for pharmacy technician..	15.00
(g)	Limited license for pharmacy technician, per year.....	10.00

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2014, Act 285, Eff. Dec. 22, 2014.

**Popular name:** Act 368

### **333.16334 Massage therapist; fees.**

Sec. 16334. Fees for an individual licensed or seeking licensure as a massage therapist under part 179A are as follows:

(a)	Application processing fee.....	\$20.00
(b)	License fee, per year.....	75.00

**History:** Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009.

**Popular name:** Act 368

### **333.16335 Physical therapy; fees.**

Sec. 16335. Fees for a person licensed or seeking licensure to engage in the practice of physical therapy or practice as a physical therapist assistant under part 178 are as follows:

(a)	Application processing fee.....	\$ 20.00
(b)	Examination fees:	
	Jurisprudence examination only.....	25.00
(c)	License fee, per year.....	90.00
(d)	Limited license, per year.....	25.00

**History:** Add. 1993, Act 80, Eff. Apr. 1, 1994;—Am. 2009, Act 55, Imd. Eff. June 25, 2009.

**Popular name:** Act 368

### **333.16336 Athletic trainer; fees.**

Sec. 16336. Fees for a person licensed or seeking licensure as an athletic trainer under part 179 are as follows:

(a)	Application processing fee.....	\$ 75.00.
(b)	License fee, per year.....	\$ 100.00.

**History:** Add. 2006, Act 54, Eff. Dec. 1, 2006;—Am. 2015, Act 166, Eff. Jan. 26, 2016.

**Compiler's note:** Act 368

### **333.16337 Physician's assistant; fees.**

Sec. 16337. Fees for a person licensed or seeking licensure to engage in practice as a physician's assistant under part 170, part 175, or part 180 are as follows:

(a)	Application processing fee.....	\$ 30.00
(b)	License fee, per year.....	50.00
(c)	Temporary license.....	35.00
(d)	Limited license, per year.....	25.00

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2006, Act 161, Eff. Nov. 26, 2006.

**Popular name:** Act 368

### **333.16339 Podiatric medicine; fees.**



Sec. 16339. Fees for a person licensed or seeking licensure to engage in the practice of podiatric medicine and surgery under part 180 are as follows:

(a) Application processing fee.....	\$ 20.00
(b) License fee, per year.....	90.00
(c) Temporary license.....	15.00
(d) Limited license, per year.....	25.00

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16341 Counseling; fees.**

Sec. 16341. Fees for a person licensed or seeking licensure to engage in the practice of counseling under part 181 are as follows:

(a) Application processing fee.....	\$ 50.00
(b) Examination fee.....	100.00
(c) License fee, per year.....	55.00
(d) Limited license fee, per year.....	25.00

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

### **333.16342 Speech-language pathologist; fees.**

Sec. 16342. Fees for an individual licensed or seeking licensure as a speech-language pathologist under part 176 are as follows:

(a) Application processing fee.....	\$ 20.00
(b) License fee, per year.....	75.00.

**History:** Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009.

**Popular name:** Act 368

### **333.16343 Psychologist; fees.**

Sec. 16343. Fees for a person licensed or seeking licensure to engage in the practice of psychology under part 182 are as follows:

(a) Application processing fee.....	\$ 50.00
(b) License fee, per year:	
(i) Full doctoral.....	90.00
(ii) Limited doctoral.....	30.00
(iii) Masters limited.....	60.00
(iv) Temporary limited.....	15.00
(c) Limited license, per year.....	40.00
(d) Temporary license.....	15.00
(e) Examination review fee.....	20.00

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

**Popular name:** Act 368

\*\*\*\*\* 333.16343a.added THIS ADDED SECTION IS EFFECTIVE APRIL 3, 2017 \*\*\*\*\*

### **333.16343a.added Practice of applied behavior analysis or assistant behavior analyst; fees.**

Sec. 16343a. Fees for an individual who is licensed or seeking licensure to engage in the practice of applied behavior analysis, or to engage in practice as an assistant behavior analyst, under part 182A are as follows:

(a) Application processing fee.....	\$ 75.00
(b) License fee, per year.....	90.00

**History:** Add. 2016, Act 403, Eff. Apr. 3, 2017.

**Popular name:** Act 368

### **333.16344 Respiratory therapist; license fees.**

Sec. 16344. Fees for an individual licensed or seeking licensure as a respiratory therapist under part 187 are as follows:

(a) Application processing fee.....	\$ 20.00
(b) License fee, per year.....	75.00
(c) Temporary license.....	75.00

**History:** Add. 2004, Act 3, Eff. July 1, 2004.

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Popular name: Act 368

### **333.16345 Occupational therapist or occupational therapist assistant; fees.**

Sec. 16345. Fees for an individual licensed or seeking licensure to engage in the practice of occupational therapy, or to engage in practice as an occupational therapy assistant, under part 183 are as follows:

- |                                     |          |
|-------------------------------------|----------|
| (a) Application processing fee..... | \$ 20.00 |
| (b) License fee, per year.....      | 75.00.   |

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009.

Popular name: Act 368

### **333.16346 Repealed. 2014, Act 267, Imd. Eff. July 1, 2014.**

**Compiler's note:** The repealed section pertained to licensure fees for dietitian or nutritionist.

Popular name: Act 368

### **333.16347 Sanitarian; fees.**

Sec. 16347. Fees for a person registered or seeking registration as a registered sanitarian under part 184 are as follows:

- |   |          |
|---|----------|
| (a) Application processing fee.....     | \$ 20.00 |
| (b) Registration fee, per year.....     | 50.00    |
| (c) Limited registration, per year..... | 10.00    |
| (d) Temporary registration.....         | 15.00    |

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994.

Popular name: Act 368

### **333.16348 Licensed bachelor's social worker, licensed master's social worker, or registered social service technician; fees.**

Sec. 16348. Fees for a person licensed or seeking licensure as a licensed bachelor's social worker or a licensed master's social worker or a person registered or seeking registration as a registered social service technician under part 185 are as follows:

- |  |          |
|--|----------|
| (a) Application processing fee.....                                  | \$ 15.00 |
| (b) License fee, per year:   |          |
| (i) Licensed bachelor's social worker.....                           | 25.00    |
| (ii) Licensed master's social worker.....                            | 25.00    |
| (c) Registration fee, per year, for a social service technician..... | 25.00    |

**History:** Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000;—Am. 2004, Act 61, Eff. July 1, 2005.

Popular name: Act 368

### **333.16349 Veterinary medicine or veterinary technician; fees.**

Sec. 16349. Fees for a person licensed or seeking licensure to engage in the practice of veterinary medicine or licensed or seeking licensure to practice as a veterinary technician under part 188 are as follows:

- |   |          |
|---|----------|
| (a) Application processing fees:          |          |
| (i) Veterinarian.....                     | \$ 25.00 |
| (ii) Veterinary technician.....           | 15.00    |
| (b) Examination fees:                     |          |
| (i) Veterinary technician, complete.....  | 130.00   |
| (ii) Veterinary technician, per part..... | 65.00    |
| (c) License fees, per year:               |          |
| (i) Veterinarian.....                     | 70.00    |
| (ii) Veterinary technician.....           | 40.00    |
| (d) Temporary license fees:               |          |
| (i) Veterinarian.....                     | 25.00    |
| (ii) Veterinary technician.....           | 10.00    |
| (e) Limited licenses, per year:           |          |
| (i) Veterinarian.....                     | 25.00    |
| (ii) Veterinary technician.....           | 10.00    |
| (f) Examination review.....               | 20.00    |

**History:** Add. 1993, Act 79, Eff. Apr. 1, 1994;—Am. 2016, Act 49, Eff. June 13, 2016.

**Compiler's note:** Enacting section 1 of Act 49 of 2016 provides:

"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, Rendered Friday, February 3, 2017

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applies to licensing fees required to be paid after December 31, 2018."

**Popular name:** Act 368